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WHERE: Office of the Federal Register
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Washington, DC 20002

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2008–0015]

RIN 0579–AC85

Citrus Greening and Asian Citrus Psyllid; Quarantine and Interstate Movement Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with several changes, an interim rule that quarantined the States of Florida and Georgia, Puerto Rico, the U.S. Virgin Islands, two parishes in Louisiana, and two counties in South Carolina due to the presence of citrus greening and quarantined Alabama, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, Texas, the U.S. Virgin Islands, three counties in South Carolina, portions of one county in Arizona, and all of three and portions of an additional three counties in California due to the presence of Asian citrus psyllid (ACP), a vector of the bacterial pathogen that causes citrus greening. The rule also established restrictions on the interstate movement of regulated articles from the quarantined areas. In this final rule, we are making several nonsubstantive editorial amendments to the interim rule to improve its clarity and facilitate regulatory compliance. This final rule also provides notice that we have quarantined American Samoa and the Northern Mariana Islands for ACP, have extended the boundaries of the quarantined area for ACP in California to incorporate all of one and portions of another additional county, and have quarantined portions of one county in Texas and an area comprising portions of two counties in California for citrus greening.

DATES: Effective October 31, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, National Program Manager, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737; (301) 851–2286.

SUPPLEMENTARY INFORMATION:

Background

Citrus greening, also known as Huanglongbing disease of citrus, is considered to be one of the most serious citrus diseases in the world. Citrus greening is a bacterial disease caused by strains of the bacterial pathogen ''*Candidatus* Liberibacter asiaticus'' that attacks the vascular system of host plants. The pathogen is phloem-limited, inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. Citrus greening greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once infected, there is no cure for a tree with citrus greening disease. In areas of the world where the disease is endemic, citrus trees decline and die within a few years and may never produce usable fruit.

The bacterial pathogen causing citrus greening can be transmitted by grafting and, under laboratory conditions, by parasitic plants. There also is some evidence that seed transmission may occur. The pathogen can also be transmitted by two insect vectors in the family *Psyllidae: Diaphorina citri* Kuwayama, the Asian citrus psyllid (ACP), and *Trioza erytreae* (del Guercio), the African citrus psyllid. ACP can also cause economic damage to citrus in groves and nurseries by direct feeding. Both adults and nymphs feed on young foliage, depleting the sap and causing galling or curling of leaves. High populations feeding on a citrus shoot can kill the growing tip. The African citrus psyllid is not known to exist in the United States.

In an interim rule [1] published in the **Federal Register** and effective on June 17, 2010 [2] (75 FR 34322–34336, Docket No. APHIS–2008–0015), we amended our domestic quarantine regulations in 7 CFR part 301 by adding a new subpart, ''Citrus Greening and Asian Citrus Psyllid'' (§§ 301.76 through 301.76–11, referred to below as the regulations). The interim rule quarantined the States of Florida and Georgia, Puerto Rico, the U.S. Virgin Islands, two parishes in Louisiana, and two counties in South Carolina due to the presence of citrus greening and quarantined Alabama, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, Texas, the U.S. Virgin Islands, three counties in South Carolina, portions of one county in Arizona, and all of three and portions of an additional three counties in California due to the presence of Asian citrus psyllid (ACP), a vector of the bacterial pathogen that causes citrus greening. The interim rule also established restrictions on the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis in order to prevent the spread of the plant pathogen and its vector to noninfested areas of the United States.

We solicited comments concerning the interim rule for 60 days, ending August 16, 2010. We received five comments by that date, from State departments of agriculture, commercial citrus nurseries, and a commercial distributor of citrus plants. The comments received are discussed below, by topic.

Regulated Articles

In § 301.76–2 of the interim rule, we designated all plant parts, including leaves (except fruit), of several genera and species, including *Murraya paniculata* (orange jasmine), as regulated articles for ACP and citrus greening.

One commenter agreed that orange jasmine is a host of ACP and citrus greening. Moreover, the commenter stated that recent studies conducted by American, Brazilian, and Chinese phytopathologists have determined that orange jasmine that is infected with citrus greening may spread the disease to other plants if ACP serves as the means of transmission. However, the commenter stated that the same

[1] To view the interim rule, its supporting and related materials, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0015*.

[2] Section 301.76–4 of that rule was effective on September 15, 2010, rather than June 17, 2010.

researchers had also found titer levels of the bacterial pathogen associated with citrus greening in these newly infected plants to be low, and to decrease over time. (Titers are antibodies for a particular pathogen that are present within an organism's vascular system.) For this reason, the commenter suggested that APHIS should reevaluate whether to consider orange jasmine a regulated article for citrus greening.

We agree with the commenter that recent studies suggest that, if citrus greening is transmitted from an orange jasmine plant to other host plants, these host plants do not exhibit high densities of the bacterial pathogen associated with the disease. However, the preponderance of available scientific evidence, including the evidence cited by the commenter, suggests that orange jasmine can serve as a source of transmission of citrus greening. Hence we are making no change to the regulations in response to this comment.

Labeling Requirements

In § 301.76–4 of the interim rule, in order to forestall the inadvertent but unauthorized noncommercial interstate movement of regulated nursery stock from an area quarantined for citrus greening, we required all nursery stock offered for commercial sale in such an area to be affixed with a plastic or metal tag with a prominent and legible statement alerting consumers to Federal prohibitions on the movement of the article. Alternatively, if the article is sold in a box or container, we allowed the statement to be printed on the box or container. We stated that the operator of the site of propagation of the nursery stock and the person offering the plants for commercial sale are jointly responsible for all such labeling.

One commenter stated that we should allow the statement to be printed on the back of existing identification tags required under State and local regulations.

Provided that the statement is prominently and legibly displayed, it may be printed on the back of such tags.

Another commenter pointed out that, as written, § 301.76–4 would require nursery stock produced in an area that is not quarantined for citrus greening, but shipped to a quarantined area for commercial sale, to be labeled prior to shipment or to be labeled by the person offering the plant for commercial sale. The commenter stated that commercial retailers of citrus nursery stock are unlikely to label their inventory; hence, it would fall to producers to label the nursery stock prior to shipment. The commenter further stated that smaller producers in the citrus industry often do not know the final destination of their nursery stock prior to shipment. The commenter concluded that § 301.76–4 would effectively require such producers to label their entire inventory, unless they were certain the nursery stock would not be shipped to an area quarantined for citrus greening. Accordingly, the commenter suggested that we modify the section so that all producers who ship regulated nursery stock interstate would have to label their plants, or so that the requirement would pertain to regulated nursery stock that is produced within an area quarantined for citrus greening, rather than offered for commercial sale within such an area.

Requiring all regulated nursery stock that will be moved in interstate commerce to be labeled in accordance with § 301.76–4 would place an undue burden on producers in areas that are not quarantined for citrus greening who ship primarily or exclusively to areas of the United States that also are not quarantined for this disease, and lacks a basis in risk.

Nursery stock that is offered for commercial sale in an area quarantined for citrus greening may not be safeguarded in a manner that precludes citrus greening from being introduced to the plants; this risk of introduction is especially pronounced for nursery stock offered for sale in an area quarantined both for citrus greening and for ACP, citrus greening's vector for short-distance spread. Accordingly, a regulated plant that was produced in an area that is not quarantined for citrus greening may become infected with the disease while it is being offered for commercial sale within such a quarantined area. Hence we consider it necessary to require that all consumers who purchase the regulated nursery stock within the quarantined area be alerted to Federal prohibitions on the interstate movement of the articles.

Finally, we appreciate the commenter's concern that commercial retailers may be disinclined to label such nursery stock in accordance with § 301.76–4. To that end, we have been working with commercial retailers since issuance of the interim rule to find methods to ensure that means exist for the retailers to comply with the provisions of § 301.76–4 in a manner that is not economically burdensome or disruptive.

Conditions for Interstate Movement

Section 301.76–6 of the interim rule contained regulations governing the interstate movement of regulated articles from areas quarantined for ACP, but not for citrus greening. Paragraph (b) provides for the issuance of limited permits for the interstate movement of regulated nursery stock to areas of the United States other than American Samoa, Northern Mariana Islands, and those portions of Arizona, California, and South Carolina not quarantined due to the presence of ACP or citrus greening, if certain conditions were fulfilled.

One of these conditions was that the nursery stock be treated for ACP with an APHIS-approved soil drench or in-ground granular application no more than 30 days and no fewer than 20 days before shipment, followed by an APHIS-approved foliar spray no more than 10 days before shipment. Treatments must be applied according to their Environmental Protection Agency (EPA) label, including directions on application, restrictions on place of application and other restrictions, and precautions, and including statements pertaining to worker protection standards.

The interim rule also required the nursery stock to be moved in a container sealed with an agricultural seal placed by an inspector.

Several commenters stated that these conditions unnecessarily hindered interstate commerce.

Two commenters pointed out that, in requiring application of soil drenches or granular applications no more than 30 days and no fewer than 20 days before shipment of articles, we were providing a 10-day timeframe for such application. The commenters stated that this timeframe was insufficient for smaller producers, who often did not know the expected date of interstate movement of an article that far in advance. While recognizing the need for optimal absorption of the soil drench, the commenters requested a longer window of time for the application of that treatment.

The same commenters also stated that, by requiring the articles to be sealed in a shipping container and inspectors to seal each container with an agricultural seal prior to movement, we were, in effect, limiting shipment of the articles to normal business hours (8 a.m. to 4:30 p.m., Monday through Friday). The commenters stated that their shipments traditionally have tended to occur overnight or in the early morning. Because of these economic considerations, the commenters questioned whether the conditions were strictly necessary, especially for nursery stock that is not destined for an area in which ACP could become established.

The points raised by these commenters were addressed in an interim rule published in the **Federal**

Register and effective on April 27, 2011 (76 FR 23449–23459, Docket No. APHIS–2010–0048). In that rule, we amended the regulations to provide that soil drenches may be applied no more than 90 but no less than 30 days prior to shipment, thus widening the window of time for applications to 60 days. We also amended the regulations to provide that nursery stock does not have to be moved interstate in a sealed shipping container unless it will transit a commercial citrus-producing area.

Miscellaneous Changes

We are making several nonsubstantive editorial amendments to various provisions of the June 2009 interim rule in order to improve their clarity and facilitate regulatory compliance. These changes are described below.

In § 301.76–1 of the interim rule, we defined *citrus greening* as ''a plant disease caused by several strains of the uncultured, phloem-limited bacterial pathogen '*Candidatus* Liberibacter asiaticus'.'' This definition, while accurate, did not specify that citrus greening is also commonly referred to as Huanglongbing disease of citrus by the international taxonomic community. We are amending the definition to specify that the disease is known by both names.

In the interim rule, paragraph (a) of § 301.76–6 provided for the issuance of certificates for the unrestricted movement of any regulated article from an area quarantined only for ACP, if, among other conditions, the article was treated with methyl bromide prior to movement. While the preamble of the rule noted that EPA and State and local environmental authorities may not authorize the use of methyl bromide on certain regulated articles, the regulatory text for paragraph (a) of § 301.76–6 did not. We are adding a footnote containing this information to paragraph (a).

As we mentioned above, in the interim rule, paragraph (b) of § 301.76–6 provided for the issuance of limited permits for the interstate movement of regulated nursery stock from an area quarantined only for ACP, subject to certain conditions. As we also mentioned above, one of these conditions required the nursery stock to be affixed prior to movement with a plastic or metal tag on which the statement ''Limited permit: USDA–APHIS–PPQ. Not for distribution in American Samoa, Northern Mariana Islands, or those portions of AZ, CA, and SC not quarantined due to the presence of Asian citrus psyllid or citrus greening'' is prominently and legibly displayed, or to be otherwise labeled with this statement. We stated that the limited permit statement was necessary in order to help prevent the introduction of ACP into areas with commercial citrus production but without established populations of ACP through the movement of regulated nursery stock.

However, since the interim rule was issued, established populations of ACP have been detected in two additional commercial citrus-producing areas, Northern Mariana Islands and American Samoa. In the April 2011 interim rule mentioned earlier in this document, we amended the regulations governing the statement on the limited permit to reflect the presence of ACP in American Samoa. In this final rule, we are again amending it to reflect the presence of ACP in Northern Mariana Islands.

In the interim rule, § 301.76–7 provided for the issuance of limited permits from areas quarantined for citrus greening. Paragraph (a) of § 301.76–7 provided for the issuance of limited permits for the interstate movement of regulated nursery stock for immediate export, if, among other conditions, the nursery stock is treated with an APHIS-approved soil drench or in-ground granular application, followed by an APHIS-approved foliar spray; with methyl bromide; or with irradiation. We intended these treatment options to mirror those contained in § 301.76–6 for regulated nursery stock moved interstate from an area quarantined only for ACP. However, while § 301.76–6 authorized regulated nursery stock to be treated with APHIS-approved soil drenches, granular applications, and foliar sprays, or fumigated with methyl bromide, it did not authorize nursery stock to be treated with irradiation. We are amending § 301.76–7 accordingly. (The April 2011 interim rule referenced above redesignated paragraph (a) as paragraph (b); hence we would amend paragraph (b) of § 301.76–7.)

Notice of Quarantine

In § 301.76–3 of the interim rule, paragraph (c) provided that a State or territory within the United States will be designated a quarantined area for ACP in which an established population of ACP has been detected. Paragraph (b) of § 301.76–3 provided that we may designate less than an entire State or territory as a quarantined area for ACP if the State or territory has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and if the designation of less than the entire State or territory will still prevent the interstate spread of ACP.

As we mentioned above, we have detected established populations of ACP in American Samoa and Northern Mariana Islands; neither of these territories has adopted intra-territorial restrictions on the movement of regulated articles. We have also detected established populations of ACP in Ventura County and Santa Barbara County, CA, and detected citrus greening in portions of Hidalgo County, TX, and an area comprising portions of Los Angeles County and Orange County, CA.

Accordingly, we are designating both American Samoa and Northern Mariana Islands, in their entireties, as quarantined areas for ACP, and are expanding the quarantined area for ACP in California to include Ventura County in its entirety and portions of Santa Barbara County. We are also designating portions of Hidalgo County, TX, and an area comprising portions of Los Angeles County and Orange County, CA, as quarantined areas for citrus greening. The updated list of quarantined areas is available on the Internet, at *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus_greening/index.shtml.*

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

This final rule also affirms the information contained in the interim rule regarding Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Orders 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This final rule follows an interim rule that quarantined the States of Florida and Georgia, Puerto Rico, the U.S. Virgin Islands, two parishes in Louisiana, and two counties in South Carolina due to the presence of citrus greening and quarantined Alabama, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, Texas, the U.S. Virgin Islands, three counties in South Carolina, portions of one county in Arizona, and all of three and portions of an additional three counties in California due to the presence of Asian citrus psyllid, a vector of the bacterial pathogen that causes citrus greening. In this final rule, the list of quarantined areas for Asian citrus psyllid is being updated to

include American Samoa, the Northern Mariana Islands, and all of one and portions of another additional county in California. Likewise, the list of quarantined areas for citrus greening is being updated to include portions of one county in Texas and an area comprising portions of two counties in California. The analysis that accompanies this rule considers the economic effects of the regulations on the current quarantined area and the benefits of imposing the quarantine.

Expected benefits and costs are examined, in accordance with Executive Orders 12866 and 13563, including expected economic impacts for small entities as required by the Regulatory Flexibility Act.

In the interim rule, APHIS imposed measures to prevent the spread of citrus greening and ACP to other commercial citrus-producing areas by prohibiting or restricting the movement of host material outside of areas quarantined for the pest or the disease. Although the majority of affected establishments in the quarantined areas are small entities, the effects of the interim rule on these businesses were minor. Affected entities were nursery operations and other production sites in Alabama, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, South Carolina, Texas, and the U.S. Virgin Islands that produce citrus trees, orange jasmine, curryleaf, and other articles regulated by the rule.

This final rule designates American Samoa and the Northern Mariana Islands as quarantined areas for ACP, and extends the boundaries of the quarantine area for ACP in California to include all of one county (Ventura County) and portions of another additional county (Santa Barbara County). Producers in these areas that have relied on markets in commercial citrus-producing areas that are not currently quarantined for ACP or citrus greening will suffer the loss of those markets. However, it is unlikely that producers of citrus nursery stock in these areas currently produce citrus nursery stock intended for markets outside of the quarantine area. The effort to mitigate the further spread of ACP and citrus greening will serve to benefit to other citrus producing areas.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, the interim rule amending 7 CFR parts 301 and 305 that was published at 75 FR 34322 on June 10, 2011, is adopted as a final rule, with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.76–1, the definition of citrus greening is revised to read as follows:

§ 301.76–1 Definitions.

* * * * *

Citrus greening. A plant disease, also commonly referred to as Huanglongbing disease of citrus, that is caused by several strains of the uncultured, phloem-limited bacterial pathogen ''*Candidatus* Liberibacter asiaticus''.

* * * * *

§§ 301.76–6, 301.76–7, 301.76–8, and 301.76–9 [Amended]

■ 3. In §§ 301.76–6, 301.76–7, 301.76–8, and 301.76–9, footnotes 3 through 7 are redesignated as footnotes 4 through 8, respectively.

■ 4. Section 301.76–6 is amended as follows:

■ a. In paragraph (a)(1), by adding a footnote 3; and

■ b. In paragraph (c)(1)(iv), by removing the words ''Northern Mariana Islands or''.

The addition reads as follows:

§ 301.76–6 Additional conditions for issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for Asian citrus psyllid, but not for citrus greening.

(a) * * *

(1) The article is treated with methyl bromide [3] in accordance with 7 CFR part 305 of this chapter.

* * * * *

§ 301.76–7 [Amended]

■ 5. In § 301.76–7, paragraph (b)(1) is amended by removing the words ''or irradiation''.

Done in Washington, DC, this 26th day of September 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–24112 Filed 9–28–12; 8:45 am]

BILLING CODE 3410–34–P

[3] EPA and State and local environmental authorities may restrict the use of methyl bromide on certain articles.

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE–2011–BT–STD–0060]

RIN 1904–AC64

Energy Conservation Program: Energy Conservation Standards for Dishwashers

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

ACTION: Notice of effective date and compliance dates for direct final rule.

SUMMARY: The U.S. Department of Energy (DOE) published a direct final rule to establish amended energy conservation standards for dishwashers in the **Federal Register** on May 30, 2012. DOE has determined that the adverse comments received in response to the direct final rule were not sufficiently ''adverse'' as to provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this document confirming adoption of the energy conservation standards established in the direct final rule and announcing the effective date of those standards.

DATES: The September 27, 2012, effective date for the direct final rule published on May 30, 2012 (77 FR 31918) is confirmed. Compliance with the standards in the direct final rule will be required on May 30, 2013.

ADDRESSES: The docket is available for review at regulations.gov, including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. Not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=25;po=0;D=EERE-2011-BT-STD-0060.*

For further information on how to submit or review public comments or view hard copies of the docket, contact Ms. Brenda Edwards at (202) 586–2945 or email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121; telephone:

(202) 586–7463; email: *Stephen.Witkowski@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121; telephone: (202) 586–7796; email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority and Rulemaking Background

As amended by Energy Independence and Security Act of 2007 (EISA 2007; Pub. L. 110–140), the Energy Policy and Conservation Act (EPCA) authorizes DOE to issue a direct final rule establishing an energy conservation standard on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by the Secretary of Energy (Secretary), that contains recommendations with respect to an energy conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o). A notice of proposed rulemaking (NOPR) that proposes an identical energy conservation standard must be published simultaneously with the final rule, and DOE must provide a public comment period of at least 110 days on the direct final rule. 42 U.S.C. 6295(p)(4). Not later than 120 days after issuance of the direct final rule, if one or more adverse comments or an alternative joint recommendation are received relating to the direct final rule, the Secretary must determine whether the comments or alternative recommendation may provide a reasonable basis for withdrawal under 42 U.S.C. 6295(o) or other applicable law. If the Secretary makes such a determination, DOE must withdraw the direct final rule and proceed with the simultaneously published NOPR. DOE must publish in the **Federal Register** the reasons why the direct final rule was withdrawn. Id.

During the rulemaking proceeding to consider amending energy conservation standards for dishwashers, DOE received the ''Agreement on Minimum Federal Efficiency Standards, Smart Appliances, Federal Incentives and Related Matters for Specified Appliances'' (the ''Joint Petition'' or ''Consensus Agreement''), a comment submitted by groups representing manufacturers (the Association of Home Appliance Manufacturers (AHAM), Whirlpool Corporation (Whirlpool), General Electric Company (GE), Electrolux, LG Electronics, Inc. (LG), BSH Home Appliances (BSH), Alliance Laundry Systems (ALS), Viking Range, Sub-Zero Wolf, Friedrich A/C, U-Line, Samsung, Sharp Electronics, Miele, Heat Controller, AGA Marvel, Brown Stove, Haier, Fagor America, Airwell Group, Arcelik, Fisher & Paykel, Scotsman Ice, Indesit, Kuppersbusch, Kelon, and DeLonghi); energy and environmental advocates (American Council for an Energy Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), Alliance to Save Energy (ASE), Alliance for Water Efficiency (AWE), Northwest Power and Conservation Council (NPCC), and Northeast Energy Efficiency Partnerships (NEEP)); and consumer groups (Consumer Federation of America (CFA) and the National Consumer Law Center (NCLC)) (collectively, the ''Joint Petitioners''). This collective set of comments[1] [2] recommends specific energy conservation standards for dishwashers that, in the commenters' view, would satisfy the EPCA requirements at 42 U.S.C. 6295(o).

After careful consideration of the Consensus Agreement, the Secretary determined that it was submitted by interested persons who are fairly representative of relevant points of view on this matter. DOE noted in the direct final rule that Congress provided some guidance within the statute itself by specifying that representatives of manufacturers of covered products, States, and efficiency advocates are relevant parties to any consensus recommendation. (42 U.S.C. 6295(p)(4)(A)) As delineated above, the Consensus Agreement was signed and submitted by a broad cross-section of the manufacturers who produce the subject products, their trade associations, and environmental, energy efficiency and consumer advocacy organizations. Although States were not signatories to the Consensus Agreement, they did not express any opposition to it from the time of its submission to DOE through the close of the comment period on the direct final rule. Moreover, DOE stated in the direct final rule that it does not interpret the statute as requiring absolute agreement among all interested parties before DOE may proceed with issuance of a direct final rule. By explicit language of the statute, the Secretary has discretion to determine when a joint recommendation for an energy or water conservation standard has met the requirement for representativeness (*i.e.,* ''as determined by the Secretary''). Accordingly, DOE determined that the Consensus Agreement was made and submitted by interested persons fairly representative of relevant points of view.

Pursuant to 42 U.S.C. 6295(p)(4), the Secretary must also determine whether a jointly submitted recommendation for an energy or water conservation standard is in accordance with 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable. As stated in the direct final rule, this determination is exactly the type of analysis DOE conducts whenever it considers potential energy conservation standards pursuant to EPCA. DOE applies the same principles to any consensus recommendations it may receive to satisfy its statutory obligation to ensure that any energy conservation standard that it adopts achieves the maximum improvement in energy efficiency that is technologically feasible and economically justified and will result in significant conservation of energy. Upon review, the Secretary determined that the Consensus Agreement submitted in the instant rulemaking comports with the standard-setting criteria set forth under 42 U.S.C. 6295(o). Accordingly, the Consensus Agreement levels, included as trial standard level (TSL) 2, were adopted as the amended standard levels in the direct final rule. In sum, as the relevant statutory criteria were satisfied, the Secretary adopted the amended energy conservation standards for dishwashers set forth in the direct final rule. These standards are set forth in TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL DISHWASHERS

The standards apply to all products listed in TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL DISHWASHERS that are manufactured in, or imported into, the United States on or after May 30, 2013. For a detailed discussion of DOE's analysis of the benefits and burdens of the amended standards pursuant to the criteria set forth in EPCA, please see the direct final rule. (77 FR 31918 (May 30, 2012)).

As required by EPCA, DOE also simultaneously published a NOPR proposing the identical standard levels contained in the direct final rule. As discussed in section II–B of this notice, DOE considered whether any comment received during the 110-day comment period following the direct final rule was sufficiently ''adverse'' as to provide a reasonable basis for withdrawal of the

[1] DOE Docket No. EERE–2011–BT–STD–0060, Comment 1.

[2] The Joint Petitioners submitted a second petition amending the recommended compliance dates for new dishwasher standards. DOE Docket No. EERE–2011–BT–STD–0060, Comment 4.

direct final rule and continuation of this rulemaking under the NOPR. As noted in the direct final rule, it is the substance, rather than the quantity, of comments that will ultimately determine whether a direct final rule will be withdrawn. To this end, DOE weighs the substance of any adverse comment(s) received against the anticipated benefits of the Consensus Agreement and the likelihood that further consideration of the comment(s) would change the results of the rulemaking. DOE notes that to the extent an adverse comment had been previously raised and addressed in the rulemaking proceeding, such a submission will not typically provide a basis for withdrawal of a direct final rule.

TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL DISHWASHERS

Product class	Compliance date: May 30, 2013	
	Minimum annual energy use* kWh/year	Maximum per-cycle water consumption gallons/cycle
1. Standard (≥8 place settings plus 6 serving pieces)	307	5.0
2. Compact (<8 place settings plus 6 serving pieces)	222	3.5

* Annual energy use, expressed in kilowatt-hours (kWh) per year, is calculated as: The sum of the annual standby electrical energy in kWh and the product of (1) the representative average dishwasher use cycles per year and (2) the sum of machine electrical energy consumption per cycle in kWh, the total water energy consumption per cycle in kWh, and, for dishwashers having a truncated normal cycle, the drying energy consumption divided by 2 in kWh. A truncated normal cycle is defined as the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse option.

II. Comments Received on the Direct Final Rule

A. Comments Received in Support of the Direct Final Rule

Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) (collectively, the ''California Utilities'') expressed support for DOE's adoption of the standard levels proposed in the Joint Petition,[3] as did AHAM.[4] Additionally, ASAP, ASE, ACEEE, CFA, NCLC, NRDC, and NEEP commented in support of the standard levels in the direct final rule.[5]

B. Adverse Comments Received on the Direct Final Rule

DOE received several adverse comments from private citizens. To make the comment summary and response easier to follow, the commenters are identified by their comment number. [6] [7] [8]

Comment 15 stated that DOE should withdraw the direct final rule and move to a proposed rule because it failed to analyze several important factors. It stated that: (1) DOE did not examine the effects on two important demographics (wholesalers and retailers); (2) DOE did not adequately assess the significance of market and public institution failures that the rule attempts to correct; and (3) the life-cycle-cost savings for each individual dishwasher are so small that deviations from the agency's assumption of dishwashing habits or other mistakes could eliminate those savings.

Regarding the impacts of the standards on wholesalers and retailers, DOE estimated that the standards would likely cause a slight reduction in dishwasher unit sales. Because the standards are expected to result in a small increase in price, however, the net effect on revenue of wholesalers and retailers should be negligible.

Regarding failures of private markets or public institutions, Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action. DOE addressed this requirement in section VI.A of the direct final rule. In addition, in section V.C of the direct final rule, DOE discussed some of the reasons why consumers appear to undervalue energy efficiency improvements.

DOE acknowledges that there is uncertainty regarding the estimated cost savings. The methods and assumptions used by DOE, however, have been extensively reviewed and subject to public comment not only in the direct final rule to establish amended standards for dishwashers, but in other DOE rulemakings as well. The commenter did not provide any specific concerns with the assumptions used by DOE or offer any alternative assumptions for use in DOE's analysis.

Two of the private citizens questioned the estimated payback period in the direct final rule. Comment 14 notes that DOE estimates a median payback period of 11.8 years for a new dishwasher, and that the Consortium for Energy Efficiency lists the average life of a residential dishwasher at 11 years, which is shorter than the estimated payback period. Comment 16 notes that external sources estimate dishwasher lifetime at 9–12 years. Because the basis for published dishwasher lifetime estimates is uncertain, DOE conducted an analysis of residential dishwasher lifetimes in the field. As described in chapter 8 of the direct final rule technical support document (TSD), the analysis yielded an estimate of mean age for residential dishwashers of approximately 15 years, longer than the median payback period for the adopted energy conservation standards for standard-size dishwashers.

Comment 14 noted that the benefits attributed to emissions reductions represent between 17 and 35 percent of the total benefits from the new standard, and because the long-term effects of carbon dioxide (CO_2) emissions are unclear, DOE should not justify the standards using benefits from emissions reductions. DOE used a wide range of estimates of the value of avoiding a ton of CO_2 emissions that had been prepared by an interagency process that included a thorough review of the relevant literature (see appendix 16–A of the direct final rule TSD for discussion). Furthermore, the benefits from emissions reductions are only one of a number of factors that DOE considers in assessing whether a

[3] DOE Docket No. EERE–2011–BT–STD–0060, Comment 13.

[4] DOE Docket No. EERE–2011–BT–STD–0060, Comment 19.

[5] DOE Docket No. EERE–2011–BT–STD–0060, Comment 18.

[6] DOE Docket No. EERE–2011–BT–STD–0060, Comment 14.

[7] DOE Docket No. EERE–2011–BT–STD–0060, Comment 15.

[8] DOE Docket No. EERE–2011–BT–STD–0060, Comment 16.

standard is economically justified. In the direct final rule, the Secretary concluded that at trial standard level (TSL) 2 for residential dishwashers (which represents the standards adopted), the benefits of energy savings, water savings, positive net present value (NPV) of consumer benefits, emission reductions, and the estimated monetary value of the CO_2 emissions reductions would outweigh the impacts on manufacturers.

Comment 16 notes that the benefits attributed to emissions reductions represent a global, not a domestic, value. The interagency process that developed the Social Cost of Carbon (SCC) estimates used by DOE focused on a global measure of SCC because of the distinctive nature of the climate change problem. Under current Office of Management and Budget (OMB) guidance in OMB Circular A–4, agencies must analyze economically significant proposed and final regulations from the domestic perspective, and analysis from the international perspective is conducted as appropriate. A global measure of SCC is used in DOE rulemakings because climate change involves a global externality: Emissions of most greenhouse gases (GHG) contribute to damages around the world even when they are emitted in the United States. Consequently, to address the global nature of the problem, the SCC must incorporate the full (global) damages caused by GHG emissions.

Comment 14 stated that the new standards may not represent a significant conservation of energy due to the presence of other energy efficiency programs, most notably the ENERGY STAR program. Comment 14 notes that the majority of dishwashers sold in the United States meet the ENERGY STAR specifications, which are more stringent than the new DOE energy conservation standards. DOE's analysis measures energy savings relative to a base case that includes the projected impacts of other energy efficiency programs. Although the term ''significant'' is not defined in EPCA, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (DC Cir. 1985), indicated that Congress intended ''significant'' energy savings in this context to be savings that were not ''genuinely trivial.'' DOE estimates that the new standards will save 0.07 quads of energy over the period from 2013 through 2047. DOE considers these to be significant reductions.

Comments 14 and 16 stated that due to the increased cost of a dishwasher under the new standards, some consumers will opt not to purchase a new dishwasher and will continue to use older less-efficient models or to hand wash, which would negatively impact the water and energy savings attributed to the new standard. DOE's analysis accounted for the possibility that some consumers may opt not to purchase new energy efficient dishwashers, and the estimated savings reflect this possibility.

C. Other Comments on the Direct Final Rule

Although AHAM expressed support for the direct final rule, AHAM raised several points that it clarified were not intended as adverse comments.[9]

First, AHAM noted that the compliance date for the amended dishwasher standards represents an unusual case in which less lead time than usual is acceptable because manufacturers agreed to the shorter lead time as part of the consensus agreement. AHAM noted that ordinarily, and going forward, the statutory lead time of 3 years from the date of publication of a final rule adopting new or amended standards is necessary for manufacturers to design and produce products that comply with the new or amended standards. DOE acknowledges AHAM's comment.

Regarding DOE's estimate of typical dishwasher cycle time, AHAM does not object to the 1-hour cycle time estimate for purposes of the direct final rule, but notes that it may need to be studied in the future and that the average cycle time could be longer than 1 hour. DOE acknowledges AHAM's comment.

Regarding dishwasher performance, AHAM agrees that the efficiency levels in the direct final rule are not likely to adversely impact performance, but states that more stringent levels could adversely impact performance. AHAM stated that, as efficiency and water standards levels become more stringent, it may be necessary to evaluate performance in DOE's analysis. DOE acknowledges AHAM's comment.

AHAM opposed DOE's use of the Residential Energy Consumption Survey (RECS) and similar data for its energy and water use analysis. DOE acknowledges AHAM's comment. DOE uses RECS data for the energy and water use for the reasons explained in the direct final rule. 77 FR 31918, 31931 (May 30, 2012).

AHAM stated that the burden associated with reporting for certification is substantially more than 20 hours. It expressed hope that DOE will amend its certification, compliance, and enforcement rule to conform the scope of its annual report to the Federal Trade Commission report. DOE acknowledges AHAM's comment.

AHAM continues to oppose the use of experience curves in the projection of consumer product prices. DOE used experience curves to project product prices for dishwashers for the reasons stated in the direct final rule. 77 FR 31918, 31933 (May 30, 2012).

AHAM stated that any CO_2 analysis should include CO_2 emissions caused indirectly, as well as directly, from a standards change, such as increased carbon emissions required to manufacture a product at a given standard level. DOE has begun to include CO_2 emissions that occur in the full fuel cycle, which includes emissions that occur in production and transportation of fuels. DOE continues to believe that it is inappropriate to include emissions that occur in manufacturing or transport of appliances. EPCA directs DOE to consider the total projected amount of energy savings likely to result directly from a standard, and DOE interprets this to include only energy consumed at the point of use and in the production, processing and transportation of fuels used by appliances or equipment.

III. Department of Justice Analysis of Competitive Impacts

EPCA directs DOE to consider any lessening of competition that is likely to result from new or amended standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) DOE published a NOPR containing energy conservation standards identical to those set forth in the direct final rule and transmitted a copy of the direct final rule and the accompanying TSD to the Attorney General, requesting that the U.S. Department of Justice (DOJ) provide its determination on this issue. DOE has published DOJ's comments at the end of this notice.

DOJ reviewed the amended standards in the direct final rule and the final TSD provided by DOE. As a result of its analysis, DOJ concluded that the amended standards issued in the direct final rule are unlikely to have a significant adverse impact on competition. DOJ further noted that the amended standards established in the

[9] DOE Docket No. EERE–2011–BT–STD–0060, Comment 19.

direct final rule were the same as recommended standards submitted in the Joint Petition signed by industry participants who believed they could meet the standards (as well as other interested parties).

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) requires preparation of a regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*www.gc.doe.gov*).

DOE reviewed the direct final rule and corresponding NOPR pursuant to the RFA and the policies and procedures discussed above. DOE certifies that the standards in the direct final rule will not have a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below. DOE has considered the comments received on the economic impacts of the rule in adopting the standards set forth in the direct final rule; responses to these comments are provided in section II.

For manufacturers of residential dishwashers, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at: *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Residential dishwasher manufacturing is classified under NAICS 335228, ''Other Major Household Appliance Manufacturing.'' The SBA sets a threshold of 500 employees or less for an entity to be considered as a small business for this category.

To estimate the number of small businesses which could be impacted by the amended energy conservation standards, DOE conducted a market survey using all available public information to identify potential small manufacturers. DOE's research included the AHAM membership directory, product databases (Consortium for Energy Efficiency (CEE), California Energy Commission (CEC), and ENERGY STAR databases) and individual company Web sites to find potential small business manufacturers. DOE also asked interested parties and industry representatives if they were aware of any other small business manufacturers during manufacturer interviews and at previous DOE public meetings. DOE reviewed all publicly available data and contacted various companies, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered residential dishwashers. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign owned and operated.

Almost half of residential dishwashers are currently manufactured in the United States by one corporation that accounts for approximately 49 percent of the total market. Together, this manufacturer and three other manufacturers that do not meet the definition of a small business manufacturer comprise 99 percent of the residential dishwasher market. The small portion of the remaining residential dishwasher market (approximately 57,000 shipments) is supplied by a combination of approximately 15 international and domestic companies, all of which have small market shares. These companies are either foreign owned and operated or exceed the SBA's employment threshold for consideration as a small business under the appropriate NAICS code. Therefore, DOE did not identify any small business manufacturers of dishwashers. DOE received no comments on its estimate and retains this estimate for the certification.

Based on the discussion above, DOE continues to certify that the standards for residential dishwashers set forth in today's rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE transmitted the certification to the SBA as required by 5 U.S.C. 605(b).

V. National Environmental Policy Act

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the direct final rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. *See* 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination or this direct final rule is available at *http://cxnepa.energy.gov.*

VI. Conclusion

In summary, based on the discussion above, DOE has determined that the comments received in response to the direct final rule for amended energy conservation standards for dishwashers do not provide a reasonable basis for withdrawal of the direct final rule. As a result, the amended energy conservation standards set forth in the direct final rule were effective on September 27, 2012. Compliance with these standards is required on May 30, 2013.

Issued in Washington, DC, on September 25, 2012.

David Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Note: The following will not appear in the Code of Federal Regulations:

BILLING CODE 6450–01–P

U.S. DEPARTMENT OF JUSTICE
Antitrust Division

Joseph F. Wayland
Acting Assistant Attorney General

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(202)514-2401 / (202)616-2645 (Fax)

August 24, 2012

Eric Fygi
Deputy General Counsel
Department of Energy
Washington, DC 20585

Dear Deputy General Counsel Fygi:

I am responding to your June 25, 2012 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for residential dishwashers. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to consumers, and perhaps thwart the intent of the revised standards by inducing substitution to less efficient products.

We have reviewed the proposed standards contained in the Direct Final Rule (77 Fed. Reg. 31918, May 30, 2012). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy. Based on this review, our conclusion is that the proposed energy conservation standards for residential dishwashers are unlikely to have a significant adverse impact on competition. In

reaching our conclusion, we note that these proposed energy standards were adopted from a Consensus Agreement signed by a broad cross-section of industry participants.

Sincerely,

Joseph P. Wayland

[FR Doc. 2012–23953 Filed 9–28–12; 8:45 am]
BILLING CODE 6450–01–C

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE–2008–BT–STD–0019]

RIN 1904–AB90

Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers

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

ACTION: Notice of effective date and compliance dates for direct final rule.

SUMMARY: The U.S. Department of Energy (DOE) published a direct final rule to establish amended energy conservation standards for residential clothes washers in the **Federal Register** on May 31, 2012. DOE has determined that the adverse comments received in response to the direct final rule were not sufficiently adverse to provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this document confirming adoption of the energy conservation standards established in the direct final rule and announcing the effective date of those standards.

DATES: The September 28, 2012, effective date for the direct final rule published on May 31, 2012 (77 FR 32308) is confirmed. Compliance with the standards in the direct final rule will be required on March 7, 2015 and January 1, 2018, as set forth in Table 1 in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: The docket is available for review at regulations.gov, including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. Not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket Web page can be found at *www.regulations.gov/#!docketDetail;D=EERE-2008-BT-STD-0019.*

For further information on how to submit or review public comments or view hard copies of the docket, contact Ms. Brenda Edwards at (202) 586–2945 or email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121; telephone: (202) 586–7463; email: *Stephen.Witkowski@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121; telephone: (202) 586–7796; email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority and Rulemaking Background

As amended by Energy Independence and Security Act of 2007 (Pub. L. 110–140), the Energy Policy and Conservation Act (EPCA) authorizes DOE to issue a direct final rule establishing an energy conservation standard on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by the Secretary of Energy (Secretary), that contains recommendations with respect to an energy conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o). A notice of proposed rulemaking (NOPR) that proposes an identical energy conservation standard must be published simultaneously with the direct final rule, and DOE must provide a public comment period of at least 110 days on the direct final rule. 42 U.S.C. 6295(p)(4). Not later than 120 days after issuance of the direct final rule, if one or more adverse comments or an alternative joint recommendation are received relating to the direct final rule, the Secretary must determine whether the comments or alternative recommendation may provide a reasonable basis for withdrawal under 42 U.S.C. 6295(o) or other applicable law. If the Secretary makes such a determination, DOE must withdraw the direct final rule and proceed with the simultaneously published NOPR. DOE must publish in the **Federal Register** the reasons why the direct final rule was withdrawn. Id.

During the rulemaking proceeding to consider amending energy conservation standards for residential clothes washers, DOE received the ''Agreement on Minimum Federal Efficiency Standards, Smart Appliances, Federal Incentives and Related Matters for Specified Appliances'' (the ''Joint Petition'' or ''Consensus Agreement''), a comment submitted by groups representing manufacturers (the Association of Home Appliance Manufacturers (AHAM), Whirlpool Corporation (Whirlpool), General Electric Company (GE), Electrolux, LG Electronics, Inc. (LG), BSH Home Appliances (BSH), Alliance Laundry Systems (ALS), Viking Range, Sub-Zero Wolf, Friedrich A/C, U-Line, Samsung, Sharp Electronics, Miele, Heat Controller, AGA Marvel, Brown Stove, Haier, Fagor America, Airwell Group, Arcelik, Fisher & Paykel, Scotsman Ice, Indesit, Kuppersbusch, Kelon, and DeLonghi); energy and environmental advocates (American Council for an Energy Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), Alliance to Save Energy (ASE), Alliance for Water Efficiency (AWE), Northwest Power and Conservation Council (NPCC), and Northeast Energy Efficiency Partnerships (NEEP)); and consumer groups (Consumer Federation of America (CFA) and the National Consumer Law Center (NCLC)) (collectively, the ''Joint Petitioners''). This collective set of comments [1] [2] recommends specific energy conservation standards for residential clothes washers that, in the commenters' view, would satisfy the EPCA requirements at 42 U.S.C. 6295(o).

After careful consideration of the Consensus Agreement, the Secretary determined that it was submitted by interested persons who are fairly representative of relevant points of view on this matter. DOE noted in the direct final rule that Congress provided some guidance within the statute itself by specifying that representatives of manufacturers of covered products, States, and efficiency advocates are relevant parties to any consensus recommendation. (42 U.S.C. 6295(p)(4)(A)) As delineated above, the Consensus Agreement was signed and submitted by a broad cross-section of the manufacturers who produce the subject products, their trade associations, and environmental, energy efficiency and consumer advocacy organizations. Although States were not signatories to the Consensus Agreement, they did not express any opposition to it from the time of its submission to DOE through the close of the comment period on the direct final rule. Moreover, DOE stated in the direct final rule that it does not interpret the statute as requiring absolute agreement among all interested parties before DOE may proceed with issuance of a direct final

[1] DOE Docket No. EERE–2008–BT–STD–0019, Comment 35.

[2] The Joint Petitioners submitted a second petition amending the recommended compliance dates for new residential clothes washer standards. DOE Docket No. EERE–2008–BT–STD–0019, Comment 39.

rule. By explicit language of the statute, the Secretary has discretion to determine when a joint recommendation for an energy or water conservation standard has met the requirement for representativeness (*i.e.,* ''as determined by the Secretary''). Accordingly, DOE determined that the Consensus Agreement was made and submitted by interested persons fairly representative of relevant points of view.

Pursuant to 42 U.S.C. 6295(p)(4), the Secretary must also determine whether a jointly submitted recommendation for an energy or water conservation standard is in accordance with 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable. As stated in the direct final rule, this determination is exactly the type of analysis DOE conducts whenever it considers potential energy conservation standards pursuant to EPCA. DOE applies the same principles to any consensus recommendations it may receive to satisfy its statutory obligation to ensure that any energy conservation standard that it adopts achieves the maximum improvement in energy efficiency that is technologically feasible and economically justified and will result in significant conservation of energy. Upon review, the Secretary determined that the Consensus Agreement submitted in the instant rulemaking comports with the standard-setting criteria set forth under 42 U.S.C. 6295(o). Accordingly, the Consensus Agreement levels, included as trial standard level (TSL) 3, were adopted as the amended standard levels in the direct final rule.

In sum, as the relevant statutory criteria were satisfied, the Secretary adopted the amended energy conservation standards for residential clothes washers set forth in the direct final rule. These standards are set forth in TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CLOTHES WASHERS. The standards apply to all products listed in TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CLOTHES WASHERS that are manufactured in, or imported into, the United States on or after March 7, 2015 for top loading clothes washers and January 1, 2018 for both top loading and front loading clothes washers. For a detailed discussion of DOE's analysis of the benefits and burdens of the amended standards pursuant to the criteria set forth in EPCA, please see the direct final rule. (77 FR 32308 (May 31, 2012)).

As required by EPCA, DOE also simultaneously published a NOPR proposing the identical standard levels contained in the direct final rule. DOE considered whether any comment received during the 110-day comment period following the direct final rule was sufficiently ''adverse'' as to provide a reasonable basis for withdrawal of the direct final rule and continuation of this rulemaking under the NOPR. As noted in the direct final rule, it is the substance, rather than the quantity, of comments that will ultimately determine whether a direct final rule will be withdrawn. To this end, DOE weighs the substance of any adverse comment(s) received against the anticipated benefits of the Consensus Agreement and the likelihood that further consideration of the comment(s) would change the results of the rulemaking. DOE notes that to the extent an adverse comment had been previously raised and addressed in the rulemaking proceeding, such a submission will not typically provide a basis for withdrawal of a direct final rule.

TABLE 1—AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CLOTHES WASHERS

Product class	Compliance date: March 7, 2015		Compliance date: January 1, 2018	
	Minimum IMEF *	Maximum IWF †	Minimum IMEF *	Maximum IWF †
1. Top-loading, Compact (less than 1.6 ft³ capacity)	0.86	14.4	1.15	12.0
2. Top-loading, Standard	1.29	8.4	1.57	6.5
3. Front-loading, Compact (less than 1.6 ft³ capacity)	1.13	8.3	N/A	
4. Front-loading, Standard	1.84	4.7	N/A	

* IMEF (integrated modified energy factor) is calculated as the clothes container capacity in cubic feet divided by the sum, expressed in kilowatt-hours (kWh), of: (1) The total weighted per-cycle hot water energy consumption; (2) the total weighted per-cycle machine electrical energy consumption; (3) the per-cycle energy consumption for removing moisture from a test load; and (4) the per-cycle standby and off mode energy consumption. These IMEF standard levels are equivalent to the modified energy factor (MEF) standards proposed in the Consensus Agreement.

† IWF (integrated water factor) is calculated as the sum, expressed in gallons per cycle, of the total weighted per-cycle water consumption for all wash cycles divided by the clothes container capacity in cubic feet. These IWF standard levels are equivalent to the water factor (WF) standards proposed in the Consensus Agreement.

II. Comments Received on the Direct Final Rule

A. Comments Received in Support of the Direct Final Rule

Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric, and Southern California Edison jointly expressed support for DOE's adoption of the standard levels proposed in the Joint Petition,[3] as did AHAM.[4] Additionally, ASAP, ASE, ACEEE, CFA, NCLC, NRDC, and NEEP commented in support of the standard levels in the direct final rule.[5] One private citizen also expressed support for the amended standards in the direct final rule.[6]

B. Comments Requesting Withdrawal of the Direct Final Rule

DOE received one adverse comment from a private citizen.[7] The commenter does not support mandatory standards for residential clothes washers and believes energy efficiency standards should be voluntary and offered as a choice to the consumer. The commenter states that energy efficiency standards should consider clothes washer cleaning performance. Further, the commenter believes that energy efficiency standards

[3] DOE Docket No. EERE–2008–BT–STD–0019, Comment 48.

[4] DOE Docket No. EERE–2008–BT–STD–0019, Comment 50.

[5] DOE Docket No. EERE–2008–BT–STD–0019, Comment 51.

[6] DOE Docket No. EERE–2008–BT–STD–0019, Comment 49.

[7] DOE Docket No. EERE–2008–BT–STD–0019, Comment 52.

are negatively impacting cleaning performance, and that the standards should allow manufacturers to implement a user override option on the clothes washer.

Regarding whether the energy efficiency standards should be mandatory or voluntary, EPCA requires DOE to consider whether to amend existing energy efficiency standards for residential clothes washers. EPCA further requires DOE to adopt those standards that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Manufacturers are required by EPCA to manufacture products that meet these standards. 42 U.S.C. 6295(g)(10), (o); 42 U.S.C. 6302. For the reasons stated in the direct final rule, DOE determined that the standards adopted for residential clothes washers meet the EPCA criteria. Manufacturers will be required to use these standards as of March 7, 2015 and January 1, 2018, as described in the direct final rule.

Regarding cleaning performance, in determining whether a new standard is economically justified, EPCA requires DOE to consider any lessening of the utility or the performance likely to result from the imposition of a new standard. 42 U.S.C. 6295(o)(2)(B)(i)(IV), (o)(4) DOE notes that the measurement of energy efficiency or energy or water use presumes the proper functioning of a product. DOE has considered performance generally in the development of these standards and has concluded that the TSL adopted in this direct final rule would not reduce the utility or performance of the clothes washers under consideration in this rulemaking.

Regarding the implementation of override features on a clothes washer, Federal regulations do not address any specific product features; rather, the standards specify allowable energy and water use. Manufacturers may use any product design, technology, or control strategy in their clothes washers as long as the products meet the amended minimum efficiency standards as measured according to DOE's test procedures at 10 CFR part 430, Subpart B, Appendix J2. Because manufacturers must produce clothes washers that comply with the minimum standards, however, including a feature that allowed the consumer to override the maximum allowable water use and minimally allowable energy use would not be consistent with EPCA.

C. Other Comments on the Direct Final Rule

Although AHAM expressed support for the direct final rule, AHAM raised several points that it stated were not intended as adverse comments.[8]

AHAM noted that the compliance date for the amended clothes washer standards represents an unusual case in which less lead time than usual is acceptable because manufacturers agreed to the shorter lead time as part of the Consensus Agreement. AHAM agreed to this date as part of the Consensus Agreement, but it noted that without such agreement, DOE must specify the three-year statutory lead time. DOE acknowledges AHAM's comment.

AHAM commented that it believes the standby power level of 0.08 Watts that DOE associated with the selected standard levels is quite low. AHAM stated that 1–2 Watts of standby power are required to power electronic controls and to provide consumers with the usability they expect. AHAM also disagreed with DOE's conclusion that the cost to achieve 0.08 Watts is lower than the cost of achieving higher wattages of standby power. AHAM stated that if this were true, industry would already have products on the market that use only 0.08 Watts of standby power.

DOE described its approach to incorporating standby power levels in the direct final rule and in chapter 5 of the accompanying Technical Support Document (TSD). 77 FR 32335 DOE conducted standby power testing on a sample of representative clothes washers to determine the standby power levels associated with each TSL. DOE measured standby power values of 0.08 Watts or less on multiple clothes washer models with electronic controls. DOE's methods for identifying the technologies associated with each standby power level, as well as the costs associated with each standby power level, are described in detail in chapter 5 of the TSD.

Regarding clothes washer performance, AHAM agrees that the efficiency levels in the direct final rule are not likely to adversely impact performance, but stated that more stringent levels could adversely impact performance. AHAM stated that, as efficiency and water standards levels become more stringent, it may be necessary to evaluate performance in DOE's analysis. DOE acknowledges AHAM's comment.

AHAM opposed DOE's use of the Residential Energy Consumption Survey (RECS) and similar data for its energy and water use analysis. DOE acknowledges AHAM's comment. DOE used RECS data for the energy and water use analysis for the reasons explained in the direct final rule. 77 FR 32338–9 (May 31, 2012)

AHAM stated that the burden associated with reporting for certification is substantially more than 20 hours. AHAM encourages DOE to amend its certification, compliance, and enforcement rule to conform the scope of its annual report to the Federal Trade Commission report. DOE acknowledges AHAM's comment.

AHAM continues to oppose the use of experience curves in the projection of consumer product prices. DOE used experience curves to project product prices for residential clothes washers for the reasons stated in the direct final rule. 77 FR 32340

AHAM stated that it is not aware of a rebound effect for clothes washers, and it has no reason to believe that operating cost would change user behavior at the levels in the direct final rule. DOE acknowledges AHAM's comment.

AHAM stated that any CO_2 analysis should include CO_2 emissions that are caused indirectly, as well as directly, from a standards change, such as increased carbon emissions required to manufacture a product at a given standard level. DOE has begun to include CO_2 emissions that occur in the full fuel cycle, which includes emissions that occur in production and transportation of fuels. DOE continues to believe that it is inappropriate to include emissions that occur in manufacturing or transport of appliances. EPCA directs DOE to consider the total projected amount of energy savings likely to result directly from a standard, and DOE interprets this to include only energy consumed at the point of use and in the production, processing and transportation of fuels used by appliances or equipment.

III. Department of Justice Analysis of Competitive Impacts

EPCA directs DOE to consider any lessening of competition that is likely to result from new or amended standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) DOE published a NOPR containing energy conservation standards identical to those set forth the direct final rule and

[8] DOE Docket No. EERE–2008–BT–STD–0019, Comment 50.

transmitted a copy of the direct final rule and the accompanying TSD to the Attorney General, requesting that the U.S. Department of Justice (DOJ) provide its determination on this issue. DOE has published DOJ's comments at the end of this document.

DOJ reviewed the amended standards in the direct final rule and the final TSD provided by DOE. As a result of its analysis, DOJ concluded that the amended standards issued in the direct final rule are unlikely to have a significant adverse impact on competition. DOJ further noted that the amended standards established in the direct final rule were the same as recommended standards submitted in the Joint Petition signed by industry participants who believed they could meet the standards (as well as other interested parties).

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) requires preparation of a regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*www.gc.doe.gov*).

DOE reviewed the direct final rule and corresponding notice of proposed rulemaking pursuant to the RFA and the policies and procedures discussed above. Set forth below is DOE's final regulatory flexibility analysis for the standards established in the DFR. DOE has considered the comments received on the rule in adopting the standards set forth in the direct final rule; responses to these comments are provided in section II.

1. Succinct Statement of the Need for, and Objectives of, the Rule

A succinct statement of the need for, and objectives of, the rule is provided in the DFR published on May 31, 2012 (77 FR 32308) and not repeated here.

1. Summary of Significant Issues Raised by Public Comments

A summary of the comments received on the DFR is provided elsewhere in today's document and not repeated here.

2. Description and Estimated Number of Small Entities Regulated

For manufacturers of residential clothes washers, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Residential clothes washer manufacturing is classified under NAICS Code 335224, ''Household Laundry Equipment Manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

To estimate the number of small businesses who could be impacted by the amended energy conservation standards, DOE conducted a market survey using all available public information to identify potential small manufacturers. DOE's research included the AHAM membership directory, product databases (Consortium for Energy Efficiency, California Energy Commission, and ENERGY STAR databases) and individual company Web sites to find potential small business manufacturers. DOE also asked interested parties and industry representatives if they were aware of any other small business manufacturers during manufacturer interviews and at previous DOE public meetings. DOE reviewed all publicly available data and contacted various companies, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered residential clothes washers. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign owned and operated.

The majority of residential clothes washers are currently manufactured in the United States by one corporation that accounts for approximately 64 percent of the total market. Together, this manufacturer and three other manufacturers that do not meet the definition of a small business manufacturer comprise 92 percent of the residential clothes washer market. The small portion of the remaining residential clothes washer market (approximately 700,000 shipments) is supplied by a combination of 12 international and domestic companies, all of which have small market shares. Of the remaining 12 companies that manufacturer residential clothes washers for sale in the United States, DOE identified only one manufacturer that is considered a small business under NAICS Code 335224.

DOE received no comments on its estimate of the number of small businesses and retains that estimate for this final regulatory flexibility analysis.

3. Description and Estimate of Compliance Requirements

The one small business manufacturer of residential clothes washers covered by this rulemaking has one product platform. It makes a top-loading standard residential clothes washer that currently meets a 1.85 MEF and a 6.75 WF. The product meets the 2015 energy conservation standards proposed in this direct final rule, but falls short of the 2018 standard. The unit does not offer warm rinse and has electromechanical controls, making it likely that three wash temperatures (hot, warm, cold) are available on all settings including Normal for test procedure purposes. Thus, it is likely the unit will have to undergo alterations to its basic design to meet the 2018 efficiency requirements.

This company appears to manufacture its residential clothes washer with less automation and more labor than some of the larger competitors. To change the design of their current product to meet the 2018 efficiency standards, one available design pathway would be increasing the volume of the wash basket, assuming there is enough clearance within the cabinet. Increasing the drum's radius would involve cutting slightly larger octagonal pieces of metal and would not be a capital intensive solution. With this pathway, the assembly process and fabrication time would essentially remain the same. This solution would also prevent the small business manufacturer from bearing the cost of retrofitting their manufacturing process and could result in lower per-unit conversion costs relative to larger manufacturers.

Based on the engineering analysis and manufacturer interviews, if two full-time engineers took one year to implement a larger drum radius within the existing cabinet it could cost the manufacturer roughly $200,000 to implement the design change for the 2018 compliance date. If the

manufacturer were to incur additional tooling costs to implement this change, this could lead to an additional $200,000 in capital conversion costs. Because the small business manufacturer already meets the 2015 energy conservation standards, it would have 7 years from the announcement of today's direct final rule until it would have to make any changes to its current product in response to standards.

4. Steps Taken To Minimize Economic Impact on Small Entities

DOE rejected efficiency levels analyzed (TSLs 4 and 5) that would have achieved higher energy savings and other benefits than the standards set forth in the direct final rule. DOE determined that these TSLs were not economically justified, in significant part because of impacts to manufacturers.

DOE did not adopt TSLs 1 and 2, which would have further decreased the economic impacts to manufacturers. DOE determined based on its analysis, as explained in the DFR (77 FR 32308, May 31, 2012) that TSL3 achieves the maximum improvement in energy efficiency that was technologically feasible and economically justified. The direct final rule TSD also includes a regulatory impact analysis (RIA). For residential clothes washers, the RIA discusses the following policy alternatives: (1) No new regulatory action; (2) consumer rebates; (3) consumer tax credits; (4) manufacturer tax credits; (5) voluntary energy efficiency targets; (5) early replacement; and (6) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the amended standards, DOE determined that the energy savings of these regulatory alternatives are at least 3.8 times smaller than those that would be expected to result from adoption of the amended standard levels. Thus, DOE rejected these alternatives and adopted the amended standards set forth in the DFR. (See chapter 17 of direct final rule TSD for further detail on the policy alternatives DOE considered.)

V. National Environmental Policy Act

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the direct final rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. *See* 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this direct final rule is available at *http://cxnepa.energy.gov.*

VI. Conclusion

In summary, based on the discussion above, DOE has determined that the comments received in response to the direct final rule for amended energy conservation standards for residential clothes washers do not provide a reasonable basis for withdrawal of the direct final rule. As a result, the amended energy conservation standards set forth in the direct final rule were effective on September 28, 2012. Compliance with these standards is required on March 7, 2015 and January 1, 2018, as noted in Table 1.

Issued in Washington, DC, on September 25, 2012.

David Danielson,

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

The following will not appear in the Code of Federal Regulations:

BILLING CODE 645–01–P

U.S. DEPARTMENT OF JUSTICE
Antitrust Division

Joseph F. Wayland
Acting Assistant Attorney General

RFK Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
(202)514-2401 / (202)616-2645 (Fax)

August 24, 2012

Eric Fygi
Deputy General Counsel
Department of Energy
Washington, DC 20585

Dear Deputy General Counsel Fygi:

I am responding to your June 25, 2012 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for residential clothes washers. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to consumers, and perhaps thwart the intent of the revised standards by inducing substitution to less efficient products.

We have reviewed the proposed standards contained in the Direct Final Rule (77 Fed. Reg. 33208, May 31, 2012). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy. Based on this review, our conclusion is that the proposed energy conservation standards for residential clothes washers are unlikely to have a significant adverse impact on competition. In reaching our

August 24, 2012
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conclusion, we note that these proposed energy standards were adopted from a Consensus Agreement signed by a broad cross-section of industry participants.

Sincerely,

Joseph P. Wayland

[FR Doc. 2012–23960 Filed 9–28–12; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0589; Directorate Identifier 2011–NM–189–AD; Amendment 39–17199; AD 2012–19–04]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding two existing airworthiness directives (ADs) for certain Fokker Services B.V. Model F.28 Mark 0100 airplanes. The first existing AD currently requires removing the actuator from the fuel-balance transfer-valve (FBTV) and installing a locking device on the FBTV. The second existing AD currently requires inspecting to verify that the position indicator of the FBTV is in the closed position and deactivating the fuel-balance transfer-system. This new AD requires installing an FBTV locking device. This AD was prompted by reports that the FBTV was inadvertently reactivated after required de-activation measures were undone. We are issuing this AD to prevent fuel starvation and a consequent double-engine flameout, possibly resulting in a forced landing, damage to the airplane, and injury to occupants.

DATES: This AD becomes effective November 5, 2012.

The Director of the **Federal Register** approved the incorporation by reference of a certain publication listed in this AD as of November 5, 2012.

The Director of the **Federal Register** approved the incorporation by reference of a certain other publication, listed in this AD as of April 29, 1996 (61 FR 14014, March 29, 1996).

The Director of the **Federal Register** approved the incorporation by reference of a certain other publication, listed in this AD as of August 10, 1994 (59 FR 35237, July 11, 1994).

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1137; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 6, 2012 (77 FR 33332), and proposed to supersede AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994); and AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Some Fokker F28 Mark 0100 (Fokker 100) aeroplanes were delivered from the production line with a Fuel-Balance Transfer-System (FBTS) installed. Other Fokker 100 aeroplanes were delivered with only FBTS provisions and for some of those, an option existed for in-service activation of the FBTS, through Fokker Service Bulletin (SB) SBF100–28–021.
>
> The FBTS was designed to be used during maintenance activities to move the Centre of Gravity (CG) forward by transferring fuel from the main tanks to the centre tank through the crossfeed system and a Fuel-Balance Transfer-Valve (FBTV).
>
> In 1993, a dormant failure mode was discovered, which could lead to fuel starvation and consequently to a double engine flame-out, possibly resulting in a forced landing, damage to the aeroplane and injury to occupants. To address and correct this unsafe condition, CAA–NL [Civil Aviation Authority—Netherlands] issued AD BLA 93–160, which required modification of the FBTV (Fokker SBF100–28–029) [which corresponds to FAA AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994)], and later BLA 94–146, which required deactivation of the FBTS (Fokker SBF100–28–030) [which corresponds to FAA AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996)].
>
> Recently, one operator reported that on two aeroplanes, the FBTS had inadvertently been reactivated. SBF100–28–030 had been accomplished on both aeroplanes but apparently, (some of) the de-activation measures introduced with that SB were later made undone. Subsequent investigation also showed that Fokker SBF100–28–021, containing instructions for activating the FBTS, had inadvertently been left active when SBF100–28–029 and SBF100–28–030 were published. To address this safety concern, Fokker Services have issued SBF100–28–066, which introduces a task to deactivate the FBTS to a greater extent than previously required. At the same time, SBF100–28–021 has been cancelled by its Revision 1.
>
> For the reasons described above, this [European Aviation Safety Agency (EASA)] AD retains the requirements of CAA–NL [airworthiness directives] BLA 93–160 and BLA 94–146, which are superseded, and requires the accomplishment of additional measures to deactivate the FBTS [modify the airplane by installing an FBTV locking device], in accordance with the instructions of Fokker Services SBF100–28–066.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 33332, June 6, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 33332, June 6, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 33332, June 6, 2012).

Costs of Compliance

We estimate that this AD will affect 2 products of U.S. registry.

The actions that were required by AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994), and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work hour. Required parts cost about $250 per product. Based on these figures, the estimated cost of the currently required actions is $335 per product.

The actions required by AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996), and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the currently required actions is $85 per product.

We also estimate that it will take about 5 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $650 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these

figures, we estimate the cost of this AD to the U.S. operators to be $2,150, or $1,075 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 33332, June 6, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994); and AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996); and adding the following new AD:

2012–19–04 Fokker Services B.V.: Amendment 39–17199. Docket No. FAA–2012–0589; Directorate Identifier 2012–NM–189–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 5, 2012.

(b) Affected ADs

This AD supersedes AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994); and AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996).

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0100 airplanes; certificated in any category; serial numbers 11257, 11258, 11261, 11262, 11264, 11265, 11266, 11284, 11285, 11287, 11288, 11290, 11292, 11294, 11296, 11298, 11299, 11301, 11302, 11304, 11305, 11307, 11309, 11311, 11315, 11317, 11319, 11320, 11322, 11336, 11339, 11341 through 11344 inclusive, 11347, 11348, 11350, 11351, 11362, 11363, 11364, 11371, 11374, 11375, 11382, 11383, 11384, 11389, 11390, 11394, 11400, 11401, 11409, 11410, 11420 through 11424 inclusive, 11429, 11430, 11431, 11433, 11441 through 11456 inclusive, 11461, 11462, 11463, 11470 through 11475 inclusive, 11477, 11484, 11485, 11486, 11488, 11489, 11496, 11497, 11500, 11503, 11505, 11511, 11512, 11516, 11517, 11518, and 11527.

(d) Subject

Air Transport Association (ATA) of America Code 28: Fuel.

(e) Reason

This AD was prompted by reports that the fuel-balance transfer-valve (FBTV) was inadvertently reactivated after required de-activation measures were undone. We are issuing this AD to prevent fuel starvation and a consequent double-engine flameout, possibly resulting in a forced landing, damage to the airplane, and injury to occupants.

(f) Compliance

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

(g) Retained Installation of a Locking Device for the FBTV

This paragraph restates the requirements of paragraph (a) of AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994). For airplanes having serial numbers 11443, 11446 through 11449 inclusive, and 11456: Within 30 days after August 10, 1994 (the effective date of AD 94–14–05), remove the actuator from the FBTV, part number (P/N) 7933141J and install a locking device on the FBTV, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–029, Revision 1, dated November 30, 1993.

(h) Retained Inspection and Deactivation

(1) This paragraph restates the requirements of paragraphs (a) and (b) of AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996). For airplanes identified in Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994: After April 29, 1996 (the effective date of AD 96–07–06), whenever the fuel balance transfer system (FBTS) is used during maintenance, prior to further flight, perform an inspection to verify that the position indicator of the FBTV is in the closed position, in accordance with Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994. The inspection requirements of this paragraph must be accomplished until the deactivation required by paragraph (h)(2) of this AD is accomplished.

(i) If the position indicator is in the closed position, no further action is required by this paragraph.

(ii) If the position indicator is in the open position, close the FBTV, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994.

(2) Within 90 days after April 29, 1996 (the effective date of AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996)), deactivate the FBTS in accordance with either Part 2 or Part 3, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994. Accomplishment of the deactivation constitutes terminating action for the repetitive inspection requirements of paragraph (h)(1) of this AD.

(i) New Requirements of This AD

Within 12 months after the effective date of this AD, modify the airplane by installing an FBTV locking device, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–066, dated June 30, 2011, which includes the attachments

identified in paragraphs (i)(1) through (i)(5) of this AD (* the issue date is not specified on the drawing.)

(1) Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–145, dated June 30, 2011.

(2) Fokker Manual Change Notification—Operational Documentation MCNO–F100–059, dated June 30, 2011.

(3) Fokker Drawing W41190, Sheet 013, Issue P*.

(4) Fokker Drawing W41190, Sheet 014, Issue P*.

(5) Fokker Drawing W41190, Sheet 016, Issue P*.

(j) Prohibited Modification

As of the effective date of this AD, no person may modify any airplane using Fokker Service Bulletin SBF100–28–021, dated September 6, 1991 (specified in European Aviation Safety Agency (EASA) AD 2011–0158, dated August 26, 2011, and is not incorporated by reference in this AD). That service bulletin was cancelled by Fokker Service Bulletin SBF100–28–021, Revision 1, dated June 30, 2011 (not incorporated by reference in this AD).

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(l) Related Information

Refer to MCAI EASA Airworthiness Directive 2011–0158, dated August 26, 2011, and the service information specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, for related information.

(1) Fokker Service Bulletin SBF100–28–029, Revision 1, dated November 30, 1993.

(2) Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994.

(3) Fokker Service Bulletin SBF100–28–066, dated June 30, 2011, which includes the attachments identified in paragraphs (l)(3)(i) through (l)(3)(v) of this AD (* the issue date is not specified on the drawing).

(i) Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–145, dated June 30, 2011.

(ii) Fokker Manual Change Notification—Operational Documentation MCNO–F100–059, dated June 30, 2011.

(iii) Fokker Drawing W41190, Sheet 013, Issue P*.

(iv) Fokker Drawing W41190, Sheet 014, Issue P*.

(v) Fokker Drawing W41190, Sheet 016, Issue P*.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on November 5, 2012.

(i) Fokker Service Bulletin SBF100–28–066, dated June 30, 2011, which includes the attachments identified in paragraphs (m)(3)(i)(A) through (m)(3)(i)(E) of this AD (* the issue date is not specified on the drawing).

(A) Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–145, dated June 30, 2011.

(B) Fokker Manual Change Notification—Operational Documentation MCNO–F100–059, dated June 30, 2011.

(C) Fokker Drawing W41190, Sheet 013, Issue P*.

(D) Fokker Drawing W41190, Sheet 014, Issue P*.

(E) Fokker Drawing W41190, Sheet 016, Issue P*.

(ii) Reserved.

(4) The following service information was approved for IBR on April 29, 1996 (61 FR 14014, March 29, 1996).

(i) Fokker Service Bulletin SBF100–28–030, Revision 1, dated December 5, 1994. (Pages 1 through 3, 5, 8, and 10 of this document are identified as Revision 1, dated December 5, 1994. Pages 4, 6, 7, and 9 of this document are dated August 28, 1994 (original issue).)

(ii) Reserved.

(5) The following service information was approved for IBR on August 10, 1994 (59 FR 35237, July 11, 1994).

(i) Fokker Service Bulletin SBF100–28–029, Revision 1, dated November 30, 1993. (Pages 1 through 3 of this document are identified as Revision 1, dated November 30, 1993. Pages 4 through 7 of this document are dated November 10, 1993 (original issue).)

(ii) Reserved.

(6) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; email *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on September 11, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23052 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0327; Directorate Identifier 2011–NM–125–AD; Amendment 39–17198; AD 2012–19–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes. That AD currently requires installing or replacing with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane; and for certain airplanes, repositioning or replacing two bonding straps, doing a bonding-resistance check and an inspection to determine correct installation of certain bonding straps, and applicable corrective actions. This new AD adds airplanes to the applicability and, depending on the airplane configuration, requires installing new braided bonding straps, inspecting to determine if a certain strap is installed and replacing with or installing a braided bonding strap if necessary, measuring the electrical resistance of the bonding straps, verifying that brackets have an acceptable fillet seal, and doing corrective actions if necessary. This AD

was prompted by fuel system reviews conducted by the manufacturer, and our determination that additional actions are necessary to address the identified unsafe condition. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective November 5, 2012.

The Director of the **Federal Register** approved the incorporation by reference of certain publications listed in the AD as of November 5, 2012.

The Director of the **Federal Register** approved the incorporation by reference of a certain other publication listed in this AD as of February 4, 2010 (74 FR 69268, December 31, 2009).

The Director of the **Federal Register** approved the incorporation by reference of a certain other publication listed in this AD of September 7, 2006 (71 FR 43962, August 3, 2006).

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5262; fax: 562–627–5210; email: *Samuel.Lee@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009). That AD applies to the specified products. The NPRM published in the **Federal Register** on March 28, 2012 (77 FR 18719). That NPRM proposed to continue to require installing or replacing with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. That NPRM also proposed to continue to require, for certain airplanes, repositioning or replacing two bonding straps, doing a bonding-resistance check and an inspection to determine correct installation of certain bonding straps, and applicable corrective actions. That NPRM also proposed to add airplanes to the applicability, and depending on the airplane configuration, installing new braided bonding straps, inspecting to determine if a certain strap is installed and replacing with or installing a braided bonding strap if necessary, measuring the electrical resistance of the bonding straps, verifying that brackets have an acceptable fillet seal, and doing corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 18719, March 28, 2012) and the FAA's response to each comment.

Request To Add Credit for Previous Actions

FedEx requested that previous actions accomplished on 51 of its airplanes using Boeing Service Bulletin DC10–53–111, Revision 4, dated September 21, 2006; or Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011; be acceptable as terminating action for the actions specified in paragraph (j) of the NPRM (77 FR 18719, March 28, 2012).

We partially agree. We agree that the actions are acceptable, but do not agree to change the AD. We disagree that credit for previous actions should be added to the AD. Paragraphs (m)(3) and (m)(4) of this AD already allow previous accomplishment of the actions specified in paragraphs (g), (h), (i), and (j) of this AD, if those actions were done using alternative methods of compliance (AMOCs) approved in accordance with AD 2006–16–03, Amendment 39–14703 (71 FR 43962, August 3, 2006); and AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009). Boeing Service Bulletin DC10–53–111, Revision 4, dated September 21, 2006, states that it is approved as an AMOC for AD 2006–16–03. We have not changed the final rule in this regard.

Request To Combine Paragraphs

FedEx suggested that paragraphs (l)(3) and (l)(4) of the NPRM (77 FR 18719, March 28, 2012) be combined since they state the same thing.

We do not agree to combine paragraphs (l)(3) and (l)(4) of this AD, because those paragraphs state different requirements for different airplanes. We have not changed the final rule in this regard.

Request To Correct Effectivity

FedEx stated that Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011, incorrectly specifies that the reason for the revision was to add fuselage 317 to the effectivity of that service bulletin. FedEx stated that fuselage 317 was not and does not need to be added to the effectivity of that service bulletin, because fuselage 317 is in the effectivity of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

We infer that FedEx is requesting that Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011, be revised to correct the discrepancy in the stated reason for the revision of that service bulletin. We do not agree. Boeing issued Service Bulletin Information Notice DC10–53–111 IN 02, dated June 17, 2011, to clarify that fuselage 317 was not added to the effectivity of Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011. No change to this final rule is necessary in this regard.

Explanation of Additional Changes Made To This AD

We have revised certain headings throughout this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 18719, March 28, 2012) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 18719, March 28, 2012).

Costs of Compliance

We estimate that this AD affects 208 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation, inspection, and resistance measurement [retained actions from existing AD 2009–26–17, Amendment 39-16156 (74 FR 69268, December 31, 2009)].	Up to 17 work-hours × $85 per hour = $1,445.	Up to $4,169	Up to $5,614	Up to $1,167,712.
Installation, inspection, and resistance measurement [new action].	Up to 16 work-hours × $85 per hour = $1,360.	Up to $33,230	Up to $34,590	Up to $7,194,720.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), and adding the following new AD:

2012–19–03 The Boeing Company: Amendment 39–17198; Docket No. FAA–2012–0327; Directorate Identifier 2011–NM–125–AD.

(a) Effective Date

This airworthiness directive (AD) is effective November 5, 2012.

(b) Affected ADs

This AD supersedes AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009).

(c) Applicability

This AD applies to The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes, and Model MD–10–10F and MD–10–30F airplanes that have been converted from Model DC–10 series airplanes; certificated in any category; as identified in paragraphs (c)(1) and (c)(2) of this AD, as applicable.

(1) Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011 (for airplanes with extended wing-to-fuselage fillets).

(2) Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011 (for airplanes with conventional wing-to-fuselage fillets).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer, and our determination that additional actions are necessary to address the identified unsafe condition. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Retained Requirements for Installation or Replacement for Certain Airplanes, With New Service Information

This paragraph restates the installation or replacement requirements of paragraph (g) of AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), with new service information. For airplanes with manufacturer's fuselage numbers identified in the applicable service bulletin listed in paragraph (g)(1) of this AD: Within 7,500 flight hours or 60 months after September 7, 2006 (the effective date of AD 2006–16–03, Amendment 39–14703 (71 FR 43962, August 3, 2006)), whichever occurs earlier: Install or replace with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. After February 4, 2010 (the effective date of AD 2009–26–17), use the applicable service bulletin identified in paragraph (g)(2) or (g)(3) of this AD. After the effective date of this AD, use only the applicable service bulletin identified in paragraph (g)(3) of this

AD to do the actions required by this paragraph.

(1) McDonnell Douglas DC–10 Service Bulletin 53–109, Revision 4, dated October 7, 1992 (for airplanes with extended wing-to-fuselage fillets); or McDonnell Douglas DC–10 Service Bulletin 53–111, Revision 3, dated August 24, 1992 (for airplanes with conventional wing-to-fuselage fillets).

(2) Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009 (for airplanes with extended wing-to-fuselage fillets); or Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009 (for airplanes with conventional wing-to-fuselage fillets).

(3) Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011 (for airplanes with extended wing-to-fuselage fillets); or Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011 (for airplanes with conventional wing-to-fuselage fillets).

(h) Retained Requirements for Installation or Replacement for Certain Other Airplanes, With New Service Information

This paragraph restates the installation or replacement requirements of paragraph (h) of AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), with new service information. For airplanes with fuselage numbers identified in the applicable service bulletin listed in paragraph (g)(2) of this AD that are not also identified in the applicable service bulletin listed in paragraph (g)(1) of this AD, except for airplanes identified in paragraph (i) or (j) of this AD: Within 7,500 flight hours or 60 months, whichever occurs first after February 4, 2010 (the effective date of AD 2009–26–17), install or replace with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. Do the actions in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(2) or (g)(3) of this AD. After the effective date of this AD, use only the applicable service bulletin identified in paragraph (g)(3) of this AD to do the actions required by this paragraph.

(i) Retained Requirements for Strap Repositioning for Certain Airplanes, With New Service Information

This paragraph restates the strap repositioning requirements of paragraph (i) of AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), with new service information. For Group 1–4, Configuration 3 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009: Within 7,500 flight hours or 60 months after February 4, 2010 (the effective date of AD 2009–26–17), whichever occurs first, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Remove two braided bonding straps and install two longer braided bonding straps between the metallic frame of the fillet and the wing leading edge ribs, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009; or Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011. After the effective date of this AD, use only Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, to do the actions required by this paragraph.

(2) Measure the resistance of the previously installed bonding straps and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009; or Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011. After the effective date of this AD, use only Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, to do the actions required by this paragraph.

(j) Retained Requirements for Inspection and Corrective Action for Certain Airplanes, With New Service Information

This paragraph restates the inspection requirements of paragraph (j) of AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), with new service information. For Group 1–2, Configuration 2 airplanes, as identified in Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009: Within 7,500 flight hours or 60 months after February 4, 2010 (the effective date of AD 2009–26–17), whichever occurs first, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Do a general visual inspection to verify correct installation of the braided bonding straps (one left-hand wing and one right-hand wing) as shown in Sheet 7 in Figure 3 of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009, or Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011; and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009, or Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011. After the effective date of this AD, use only Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011, to do the actions required by this paragraph.

(2) Measure the resistance of the previously installed bonding straps and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009; or Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011. After the effective date of this AD, use only Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011, to do the actions required by this paragraph.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), (i), and (j) this AD, if those actions were accomplished before February 4, 2010 (the effective date of AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009)), using Boeing Service Bulletin DC10–53–111, Revision 5, dated March 19, 2008; or Boeing Service Bulletin DC10–53–109, Revision 6, dated July 10, 2008; as applicable; which are not incorporated by reference.

(l) New Installation and Corrective Actions for Certain Airplanes

Within 7,500 flight hours or 60 months after the effective date of this AD, whichever comes first: Do the applicable actions specified in paragraphs (l)(1) through (l)(6) of this AD, as applicable.

(1) For Group 1–4, Configurations 1 and 2 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, except airplanes that are identified in paragraph (g) of this AD: Remove any solid metal bonding straps and install seven new braided bonding straps, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(2) For Group 1–4, Configurations 1 and 2 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, that are also identified in paragraph (g) of this AD: Remove any solid metal bonding straps not removed during the actions required by paragraph (g) of this AD and install a 7th new braided bonding strap (paragraph (g) of this AD requires installing 6 straps), in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(3) For Group 1–4, Configuration 3 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, except airplanes identified in paragraph (i) of this AD: Do the actions specified in paragraphs (l)(3)(i) and (l)(3)(ii) of this AD.

(i) Replace one strap with new braided bonding strap, inspect to determine the existence of an installed solid metal bonding strap and replace any missing strap and any solid metal bonding strap with a new braided bonding strap, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(ii) Measure the electrical resistance across each bonding joint of the six previously-installed braided strap assemblies and verify that brackets have an acceptable fillet seal, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011. Do all applicable corrective actions before further flight.

(4) For Group 1–4, Configuration 3 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011, that are also identified in paragraph (i) of this AD: Do the actions specified in paragraphs (l)(4)(i) and (l)(4)(ii) of this AD.

(i) Inspect to determine the existence of an installed solid metal bonding strap and replace any missing strap and any solid metal bonding strap with a new braided bonding strap, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(ii) Measure the electrical resistance across each bonding joint of the six previously-installed braided strap assemblies and verify that brackets have an acceptable fillet seal, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011. Do all applicable corrective actions before further flight.

(5) For Group 1–4, Configuration 4 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011: Do the actions specified in paragraphs (l)(5)(i) and (l)(5)(ii) of this AD.

(i) Inspect to determine the existence of an installed solid metal bonding strap, and replace any missing strap and any solid metal bonding strap with a new braided bonding strap, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(ii) Measure the electrical resistance across each bonding joint of the six previously-installed braided strap assemblies and verify that brackets have an acceptable fillet seal, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011. Do all applicable corrective actions before further flight.

(6) For Group 1–4, Configuration 5 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011: Inspect to determine the existence of an installed solid metal bonding strap, and replace any missing strap and any solid metal bonding strap with a new braided bonding strap, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(m) Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 2006–16–03, Amendment 39–14703 (71 FR 43962, August 3, 2006), are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), and (j) of this AD.

(4) AMOCs approved previously in accordance with AD 2009–26–17, Amendment 39–16156 (74 FR 69268, December 31, 2009), are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), and (j) of this AD.

(n) Related Information

(1) For more information about this AD, contact Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5262; fax: 562–627–5210; email: *Samuel.Lee@faa.gov*.

(2) For service information specified in this AD that is not incorporated by reference, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.*

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on November 5, 2012.

(i) Boeing Service Bulletin DC10–53–109, Revision 8, dated March 10, 2011.

(ii) Boeing Service Bulletin DC10–53–111, Revision 7, dated March 16, 2011.

(4) The following service information was approved for IBR on February 4, 2010 (74 FR 69268, December 31, 2009).

(i) Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009.

(ii) Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009.

(5) The following service information was approved for IBR on September 7, 2006 (71 FR 43962, August 3, 2006).

(i) McDonnell Douglas DC–10 Service Bulletin 53–109, Revision 4, dated October 7, 1992.

(ii) McDonnell Douglas DC–10 Service Bulletin 53–111, Revision 3, dated August 24, 1992.

(6) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.*

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

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

Issued in Renton, Washington, on September 11, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23049 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0996; Directorate Identifier 2011–NM–040–AD; Amendment 39–17202; AD 2012–19–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A340–500 and –600 series airplanes. This AD requires repetitive inspections for corrosion of the drag stay lower arm assembly of the nose landing gear (NLG), and replacement if necessary. This AD also requires eventual replacement of the drag stay lower arm assembly of the NLG with an improved assembly having corrosion protection, which terminates the repetitive inspections required by this AD. This AD was prompted by findings of corrosion traces in the lugs and on the bearing outer surface of the NLG during routine maintenance checks. We are issuing this AD to prevent failure of the drag stay lower arm, which could result in NLG collapse and consequent reduced controllability of the airplane during takeoff.

DATES: This AD becomes effective October 16, 2012.

The Director of the **Federal Register** approved the incorporation by reference of certain publications listed in the AD as of October 16, 2012.

We must receive comments on this AD by November 15, 2012.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive (AD) 2010–0214, dated November 2, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Several NLG drag stay lower arms on A340–500/–600 aeroplanes have exhibited corrosion and rust traces in the lugs and on the bearing outer surface, discovered visually during scheduled maintenance checks or aeroplane walk-around.

Investigation has revealed that this corrosion of the drag stay lower arm can be due to:

—the damage to the sealant applied on the external interface between the lug bore and the bearing race,

—the ingress of contaminants and moisture between the lug bore and bearing race,

—the degradation of the Cadmium plating by chemical phenomena,

—the degradation of the Cadmium plating by mechanical phenomena.

The failure of the drag stay lower arm may result in NLG collapse, which would constitute an unsafe condition during the take off phase.

For the above described reasons, this [EASA] AD requires:

—repetitive inspections of the NLG drag stay lower arm assembly part number (P/N) 30–1018002–01 at the interface between the arm and the spherical bearing races, for identification of corrosion traces, and replacement of the NLG drag stay lower arm assembly in case of findings, and

—Replacement of the affected NLG drag stay lower arm assembly by a new or modified part with an improved corrosion protection, as a terminating action of the requirements of this [EASA] AD.

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

Relevant Service Information

Airbus has issued Mandatory Service Bulletins A340–32–5099, dated September 23, 2010; and A340–32–5101, dated October 20, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of this AD

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

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Difference Between the AD and the MCAI or Service Information

This AD differs from the MCAI and/or service information as follows: The MCAI and the service information include a reporting requirement. This AD does not require reporting of the inspection results to the airplane manufacturer.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0996; Directorate Identifier 2011–NM–040–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–19–07 Airbus: Amendment 39–17202. Docket No. FAA–2012–0996; Directorate Identifier 2011–NM–040–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 16, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A340–541 and –642 airplanes; certificated in any category; all manufacturer serial numbers; weight variant (WV) 000, WV001, WV002, WV003, and WV004.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by findings of corrosion and rust traces in the lugs and on the bearing outer surface of the nose landing gear (NLG) during routine maintenance checks. We are issuing this AD to prevent failure of the drag stay lower arm, which could result in NLG collapse and consequent reduced controllability of the airplane during takeoff.

(f) Compliance

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

(g) Initial and Repetitive General Visual Inspections/Corrective Action

(1) At the applicable compliance time specified in table 1 to paragraph (g) of this AD: Do a general visual inspection of the drag stay lower arm assembly having part number (P/N) 30–1018002–01 of the NLG at the interface between the arm and the spherical bearing races for corrosion traces, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340–32–5099, dated September 23, 2010.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—COMPLIANCE TIME

Age of NLG drag stay lower arm assembly as of the effective date of this AD since its first installation on any airplane, or since last NLG overhaul, or last P/N 30–1018002–01 replacement, whichever occurs latest	Compliance time since first installation of the NLG drag stay lower arm assembly on any airplane, or since last NLG overhaul, or since last P/N 30-1018002–01 replacement, whichever occurs latest
Less than 36 months	Before the accumulation of 45 months.
36 months or more, but less than 45 months	Before the accumulation of 52 months, or within 9 months after the effective date of this AD, whichever occurs first.
45 months or more, but less than 60 months	Before the accumulation of 65 months, or within 7 months after the effective date of this AD, whichever occurs first.
60 months or more, but less than 72 months	Before the accumulation of 75 months, or within 5 months after the effective date of this AD, whichever occurs first.
72 months or more, but less than 84 months	Before the accumulation of 85 months, or within 3 months after the effective date of this AD, whichever occurs first.
84 months or more	Within 1 month after the effective date of this AD.

(2) If no corrosion traces are found during the inspection required by paragraph (g)(1) of this AD: Repeat the inspection thereafter at intervals not to exceed 6 months.

(3) If any corrosion traces are found during any inspection required by paragraph (g)(1), (g)(2), or (g)(4) of this AD: At the applicable time after the inspection specified in table 2 to paragraph (g)(3) of this AD, replace the NLG drag stay lower arm assembly with a new or serviceable assembly, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340–32–5099, dated September 23, 2010.

TABLE 2 TO PARAGRAPH (g)(3) OF THIS AD—REPLACEMENT COMPLIANCE TIME

As of the date of accomplishing the inspection required by paragraph (g)(1) or (g)(2) of this AD: Age of NLG drag stay lower arm assembly, since its first installation on any airplane, or since last NLG overhaul, or last P/N 30–1018002–01 replacement—	Then, after the inspection, replace—
More than 85 months and on which no inspection has been performed during the last 6 months.	Within 5 flight cycles.
65 months or more but 85 months or less, and on which no inspection has been performed during the last 6 months.	Within 1 month.
More than 64 months and on which an inspection has been performed during the last 6 months.	Within 3 months.
Less than 65 months	Within 3 months.

(4) Within 45 months after each replacement of the NLG drag stay lower arm assembly: Perform the initial inspection required by paragraph (g)(1) of this AD, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340–32–5099, dated September 23, 2010. Repeat the inspection thereafter at intervals not to exceed 6 months.

(h) Terminating Action

Within 10 years after the effective date of this AD: Replace the NLG drag stay lower arm assembly with a serviceable assembly having improved corrosion protection, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340–32–5101, dated October 20, 2010. Accomplishing this replacement terminates the inspections required by paragraph (g) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149: Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2010–0214, dated November 2, 2010, and the service information specified in paragraphs (j)(1) and (j)(2) of this AD, for related information.

(1) Airbus Mandatory Service Bulletin A340–32–5099, dated September 23, 2010.

(2) Airbus Mandatory Service Bulletin A340–32–5101, dated October 20, 2010.

(k) Material Incorporated by Reference

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

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

(i) Airbus Mandatory Service Bulletin A340–32–5099, dated September 23, 2010.

(ii) Airbus Mandatory Service Bulletin A340–32–5101, dated October 20, 2010.

(3) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington on September 12, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23393 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30862; Amdt. No. 3497]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2012. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2012.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP,

Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 14, 2012.

Ray Towles,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 18 OCTOBER 2012

New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 16, Orig-B
New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 34, Orig-A
Worcester, MA, Worcester Rgnl, VOR/DME RWY 33, Amdt 1A
Omaha, NE, Eppley Airfield, RNAV (GPS) Y RWY 14L, Amdt 1B
Cincinnati, OH, Cincinnati Muni Airport Lunken Field, RNAV (GPS) RWY 21L, Amdt 1A
Wausau, WI, Wausau Downtown, NDB–B, Orig-A, CANCELED
Wausau, WI, Wausau Downtown, RNAV (GPS) RWY 13, Amdt 1
Wausau, WI, Wausau Downtown, RNAV (GPS) RWY 31, Orig
Wausau, WI, Wausau Downtown, Takeoff Minimums and Obstacle DP, Amdt 6
Wausau, WI, Wausau Downtown, VOR OR GPS–A, Amdt 18A, CANCELED

Effective 15 NOVEMBER 2012

Toksook Bay, AK, Toksook Bay, RNAV (GPS) RWY 34, Amdt 3
Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 34L, Amdt 1A
Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 34R, Orig-D
Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 16L, Orig
Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 16R, Orig
Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 34L, Orig
Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 34R, Orig
Torrance, CA, Zamperini Field, RNAV (GPS) RWY 11L, Orig
Torrance, CA, Zamperini Field, RNAV (GPS) RWY 29R, Orig
Denver, CO, Centennial, Takeoff Minimums and Obstacle DP, Amdt 5
Denver, CO, Denver Intl, ILS OR LOC RWY 7, Amdt 3
Denver, CO, Denver Intl, ILS OR LOC RWY 8, Amdt 5
Denver, CO, Denver Intl, ILS OR LOC RWY 16L, Amdt 3
Denver, CO, Denver Intl, ILS OR LOC RWY 16R, Amdt 1
Denver, CO, Denver Intl, ILS OR LOC RWY 17L, Amdt 4
Denver, CO, Denver Intl, ILS OR LOC RWY 17R, Amdt 3
Denver, CO, Denver Intl, ILS OR LOC RWY 25, Amdt 3
Denver, CO, Denver Intl, ILS OR LOC RWY 26, Amdt 3
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 7, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 8, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 16R, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 17L, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 17R, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 25, Amdt 1
Denver, CO, Denver Intl, RNAV (GPS) Y RWY 26, Amdt 1
Denver, CO, Denver Intl, Takeoff Minimums and Obstacle DP, Amdt 3
Denver, CO, Front Range, ILS OR LOC RWY 17, Amdt 1
Denver, CO, Front Range, ILS OR LOC RWY 26, Amdt 5
Denver, CO, Front Range, ILS OR LOC RWY 35, Amdt 1
Denver, CO, Front Range, NDB RWY 26, Amdt 5
Denver, CO, Front Range, RNAV (GPS) RWY 17, Amdt 1
Denver, CO, Front Range, RNAV (GPS) RWY 26, Amdt 1
Denver, CO, Front Range, RNAV (GPS) RWY 35, Amdt 1
Denver, CO, Front Range, Takeoff Minimums and Obstacle DP, Amdt 3
Denver, CO, Rocky Mountain Metropolitan, ILS OR LOC Y RWY 29R, Amdt 14A
Denver, CO, Rocky Mountain Metropolitan, ILS OR LOC Z RWY 29R, Orig-A
Denver, CO, Rocky Mountain Metropolitan, RNAV (GPS) RWY 29L, Amdt 1A
Denver, CO, Rocky Mountain Metropolitan, RNAV (GPS) RWY 29R, Amdt 1A
Denver, CO, Rocky Mountain Metropolitan, Takeoff Minimums and Obstacle DP, Amdt 5
Hayden, CO, Yampa Valley, RNAV (GPS) RWY 28, Amdt 2A
Rifle, CO, Garfield County Rgnl, ILS RWY 26, Amdt 3
Rifle, CO, Garfield County Rgnl, Takeoff Minimums and Obstacle DP, Amdt 10
Rifle, CO, Garfield County Rgnl, VOR/DME–C, Amdt 3
Atlanta, GA, Cobb County-McCollum Field, ILS OR LOC RWY 27, Amdt 4B

Atlanta, GA, Cobb County-McCollum Field, RNAV (GPS) RWY 27, Amdt 4A
Atlanta, GA, Fulton County Airport-Brown Field, ILS OR LOC RWY 8, Amdt 17
Atlanta, GA, Fulton County Airport-Brown Field, NDB RWY 8, Amdt 4
Atlanta, GA, Fulton County Airport-Brown Field, VOR–A, Amdt 1
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 8L, ILS RWY 8L (CAT II), ILS RWY 8L (CAT III), Amdt 3D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 8R, Amdt 59D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 9L, Amdt 8D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 9R, ILS RWY 9R (CAT II), ILS RWY 9R (CAT III), Amdt 17E
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 10, ILS RWY 10 (SA CAT I), ILS RWY 10 (CAT II), ILS RWY 10 (CAT III), Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 26L, Amdt 19D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 26R, ILS RWY 26R (SA CAT I), ILS RWY 26R (SA CAT II), Amdt 5B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 27L, ILS RWY 27L (CAT II), Amdt 16D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 27R, Amdt 4C
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS OR LOC RWY 28, ILS RWY 28 (SA CAT I), ILS RWY 28 (CAT II), Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 8L, ILS PRM RWY 8L (CAT II), ILS PRM RWY 8L (CAT III) (SIMULTANEOUS CLOSE PARALLEL), Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 8R (SIMULTANEOUS CLOSE PARALLEL), Orig-C
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 9L (SIMULTANEOUS CLOSE PARALLEL), Orig-C
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 9R, ILS PRM RWY 9R (CAT II), ILS PRM RWY 9R (CAT III) (SIMULTANEOUS CLOSE PARALLEL), Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 10, ILS PRM RWY 10 (CAT II), ILS PRM RWY 10 (CAT III) (SIMULTANOUS CLOSE PARALLEL), Amdt 2A
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 26L (SIMULTANEOUS CLOSE PARALLEL), Orig-C
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 26R, ILS PRM RWY 26R (SA CAT I), ILS PRM RWY 26R (SA CAT II) (SIMULTANEOUS CLOSE PARALLEL), Amdt 1B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 27L, ILS PRM RWY 27L (CAT II) (SIMULTANEOUS CLOSE PARALLEL), Amdt 1B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 27R (SIMULTANEOUS CLOSE PARALLEL), Orig-B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, ILS PRM RWY 28, ILS PRM RWY 28 (CAT II) (SIMULTANEOUS CLOSE PARALLEL), Amdt 2A
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 8L, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 8R, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 9L, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 9R, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 10, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 26L, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 26R, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 27L, Amdt 3B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 27R, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (GPS) Y RWY 28, Amdt 2B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 8L, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 8R, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 9L, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 9R, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 10, Amdt 1B
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 26L, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 26R, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 27L, Amdt 1C
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 27R, Orig-D
Atlanta, GA, Hartsfield—Jackson Atlanta Intl, RNAV (RNP) Z RWY 28, Amdt 1B
Perry, GA, Perry-Houston County, NDB RWY 36, Amdt 3A, CANCELED
Carroll, IA, Arthur N Neu, RNAV (GPS) RWY 13, Amdt 1
Carroll, IA, Arthur N Neu, RNAV (GPS) RWY 31, Amdt 1
Carroll, IA, Arthur N Neu, Takeoff Minimums and Obstacle DP, Amdt 1
Olathe, KS, New Century Aircenter, Takeoff Minimums and Obstacle DP, Amdt 1
Owensboro, KY, Owensboro-Daviess County, ILS OR LOC RWY 36, Amdt 13
Richmond, KY, Madison, RNAV (GPS) RWY 18, Amdt 1
Richmond, KY, Madison, RNAV (GPS) RWY 36, Amdt 1
Richmond, KY, Madison, Takeoff Minimums and Obstacle DP, Amdt 1
Richmond, KY, Madison, VOR/DME RWY 18, Amdt 7
Great Barrington, MA, Walter J. Koladza, RNAV (GPS)-B, Orig
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, ILS OR LOC RWY 15L, Amdt 3
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, ILS OR LOC RWY 33R, Amdt 2
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) RWY 15L, Amdt 3
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) RWY 33R, Amdt 3
Bowie, MD, Freeway, RNAV (GPS) RWY 18, Amdt 1
Bowie, MD, Freeway, RNAV (GPS) RWY 36, Amdt 1
Waterville, ME, Waterville Robert LaFleur, VOR/DME OR GPS RWY 5, Amdt 7B, CANCELED
Moorhead, MN, Moorhead Muni, RNAV (GPS) RWY 30, Amdt 1
Pinecreek, MN, Piney Pinecreek Border, NDB RWY 33, Amdt 1
Pinecreek, MN, Piney Pinecreek Border, RNAV (GPS) RWY 15, Orig
Pinecreek, MN, Piney Pinecreek Border, RNAV (GPS) RWY 33, Orig
Pinecreek, MN, Piney Pinecreek Border, Takeoff Minimums and Obstacle DP, Orig
Kansas City, MO, Charles B. Wheeler Downtown, Takeoff Minimums and Obstacle DP, Amdt 3A
St. Joseph, MO, Rosecrans Memorial, Takeoff Minimums and Obstacle DP, Amdt 7
Bozeman, MT, Bozeman Yellowstone Intl, RNAV (GPS)-A, Amdt 2A
Bozeman, MT, Bozeman Yellowstone Intl, RNAV (GPS) Y RWY 12, Orig-A
Bozeman, MT, Bozeman Yellowstone Intl, RNAV (RNP) RWY 30, Orig-B
Bozeman, MT, Bozeman Yellowstone Intl, RNAV (RNP) Z RWY 12, Orig-B
Bozeman, MT, Bozeman Yellowstone Intl, Takeoff Minimums and Obstacle DP, Amdt 4A
Bozeman, MT, Bozeman Yellowstone Intl, VOR RWY 12, Amdt 15A
Bozeman, MT, Bozeman Yellowstone Intl, VOR/DME RWY 12, Amdt 4A
New Bern, NC, Coastal Carolina Regional, Takeoff Minimums and Obstacle DP, Amdt 4
Grant, NE, Grant Muni, VOR/DME RWY 15, Amdt 2
Ogallala, NE, Searle Field, VOR RWY 8, Amdt 6
Ogallala, NE, Searle Field, VOR RWY 26, Amdt 6
Ogallala, NE, Searle Field, VOR/DME RWY 8, Amdt 1
Ogallala, NE, Searle Field, VOR/DME RWY 26, Amdt 1
Ellenville, NY, Joseph Y Resnick, Takeoff Minimums and Obstacle DP, Amdt 1
Elmira/Corning, NY, Elimira/Corning Rgnl, RNAV (GPS) RWY 10, Amdt 2
Elmira/Corning, NY, Elimira/Corning Rgnl, RNAV (GPS) RWY 28, Amdt 3
New York, NY, La Guardia, RNAV (GPS) RWY 31, Amdt 1A
Wellsboro, PA, Wellsboro Johnston, GPS RWY 28, Orig-A, CANCELED
Wellsboro, PA, Wellsboro Johnston, RNAV (GPS) RWY 10, Orig
Wellsboro, PA, Wellsboro Johnston, RNAV (GPS) RWY 28, Orig
Wellsboro, PA, Wellsboro Johnston, VOR–A, Amdt 6
Nashville, TN, Nashville Intl, RNAV (RNP) Z RWY 2C, Amdt 1
Nashville, TN, Nashville Intl, RNAV (RNP) Z RWY 20L, Amdt 1
Nashville, TN, Nashville Intl, RNAV (RNP) Z RWY 20R, Amdt 1
Richmond, VA, Chesterfield County, Takeoff Minimums and Obstacle DP, Amdt 3
Roanoke, VA, Roanoke Rgnl/Woodrum Field, ILS OR LOC RWY 34, Amdt 14
Roanoke, VA, Roanoke Rgnl/Woodrum Field, RNAV (GPS) RWY 6, Amdt 2

Ladysmith, WI, Rusk County, Takeoff Minimums and Obstacle DP, Amdt 1

[FR Doc. 2012–23554 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30863; Amdt. No. 3498]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2012. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2012.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Dated: Issued in Washington, DC, on September 14, 2012.

Ray Towles,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * *

Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
18–Oct–12	IL	Chicago	Chicago O'hare Intl	2/1131	09/04/12	ILS OR LOC RWY 9R, Amdt 9B.
18–Oct–12	IL	Chicago	Chicago O'hare Intl	2/3002	09/04/12	RNAV (GPS) RWY 9R, Amdt 2A.
18–Oct–12	IL	Chicago	Chicago O'hare Intl	2/3003	09/04/12	RNAV (GPS) RWY 27L, Amdt 2A.
18–Oct–12	IL	Chicago	Chicago O'hare Intl	2/3037	09/04/12	ILS OR LOC RWY 27L, ILS RWY 27L (CAT II), ILS RWY 27L (CAT III), AMDT 28B.
18–Oct–12	TX	Laredo	Laredo Intl	2/5493	09/04/12	RNAV (GPS) RWY 35L, AMDT 1.
18–Oct–12	AR	Springdale	Springdale Muni	2/5778	09/04/12	ILS OR LOC RWY 18, Amdt 8A.
18–Oct–12	AR	Springdale	Springdale Muni	2/5782	09/04/12	RNAV (GPS) RWY 18, Amdt 1A.
18–Oct–12	AR	Springdale	Springdale Muni	2/5783	09/04/12	RNAV (GPS) RWY 36, Amdt 1.
18–Oct–12	AR	Springdale	Springdale Muni	2/5784	09/04/12	VOR/DME RWY 36, AMDT 9A.
18–Oct–12	AR	Springdale	Springdale Muni	2/5786	09/04/12	VOR RWY 18, Amdt 15A.
18–Oct–12	SC	Greenville	Donaldson Center	2/7340	09/04/12	ILS OR LOC RWY 5, Amdt 5.
18–Oct–12	SC	Greenville	Donaldson Center	2/7341	09/04/12	RNAV (GPS) RWY 23, Orig.
18–Oct–12	SC	Greenville	Donaldson Center	2/7342	09/04/12	RNAV (GPS) RWY 5, Orig.
18–Oct–12	SC	Greenville	Donaldson Center	2/7343	09/04/12	NDB RWY 5, Amdt 6.
18–Oct–12	MT	Conrad	Conrad	2/8277	09/04/12	TAKEOFF MINIMUMS AND (OBSTACLE) DP, Orig.
18–Oct–12	MN	International Falls	Falls Intl	2/9577	09/04/12	COPTER ILS OR LOC RWY 31, Amdt 1A.
18–Oct–12	LA	Abbeville	Abbeville Chris Crusta Memorial.	2/9660	09/04/12	VOR/DME B, Amdt 3.
18–Oct–12	LA	Abbeville	Abbeville Chris Crusta Memorial.	2/9661	09/04/12	VOR/DME A, Amdt 2.

[FR Doc. 2012–23557 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 357

[Docket No. RM11–21–000; Order No. 767]

Revision to Form No. 6

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission amends the instructions on page 700 of FERC Form No. 6 (Form 6) to ensure that oil pipelines report interstate-only barrel and barrel-mile data on lines (11) and (12) of page 700 and not a combination of interstate and intrastate throughput. The Commission also directs pipelines that reported combined interstate and intrastate data in any field on lines (1) through (12) of page 700 of their 2010 Form 6 or page 700 of their 2011 Form 6 to file within 90 days of the final rule's publication in the **Federal Register** revised page 700 data containing only interstate data for the years 2009, 2010 and 2011.

DATES: *Effective Date:* This rule will become effective December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Andrew Knudsen (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6527, *Andrew.Knudsen@ferc.gov.* Michael Lacy (Technical Information), Office of Energy Market Regulation, 888 First Street NE., Washington, DC 20426, (202) 502–8843, *Michael.Lacy@ferc.gov.* Brian Holmes (Technical Information), Office of Enforcement, 888 First Street NE., Washington, DC 20426, (202) 502–6008, *Brian.Holmes@ferc.gov.*

SUPPLEMENTARY INFORMATION:

140 FERC ¶ 61,218

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

Revision to Form No. 6

[Docket No. RM11–21–000]

Order No. 767

Final Rule

Issued September 20, 2012.

1. In this Final Rule, the Commission amends the instructions on page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6, Annual Report of Oil Pipeline Companies, (Form 6) to ensure that oil pipelines report interstate-only barrel and barrel-mile data on lines (11) and (12) of page 700 and not a combination of interstate and intrastate throughput.[1] The Commission also directs pipelines that reported combined interstate and intrastate data in any field on lines (1) through (12) of page 700 of their 2010 Form 6[2] or their 2011 Form 6[3] to file within 90 days of the final rule's publication in the **Federal Register**

[1] Concurrent with the issuance of this Final Rule, the Commission is proposing additional changes to Page 700 of Form 6 in a Notice of Proposed Rulemaking in Docket No. RM12–18–000.

[2] Pipelines filed their 2010 FERC Form 6 on April 18, 2011.

[3] Pipelines filed their 2011 FERC Form 6 on April 18, 2012.

revised page 700 data containing only interstate data for the years 2009, 2010, and 2011.[4]

I. Background

2. Page 700 of Form 6 serves as a preliminary screening tool for shippers to evaluate interstate pipeline rates subject to the Commission's jurisdiction.[5] Thus, in Order Nos. 620 and 620–A, the Commission clarified that page 700 must include only jurisdictional costs and jurisdictional revenues (i.e. interstate costs and interstate revenues) and not a combination of jurisdictional and non-jurisdictional data.[6] Page 700 contains data for the current year and previous year, which allows shippers and the Commission to evaluate the pipeline's cost changes during the prior year.[7]

3. On July 29, 2011, the Commission issued a Notice of Proposed Rulemaking (NOPR) [8] proposing to modify the instructions for line (11) [9] and line (12) [10] of page 700 to specify that pipelines must report only interstate barrels and interstate barrel-miles, not a combination of interstate and intrastate throughput. The NOPR observed that the current instructions on page 700 for lines (11) and (12) may inadvertently have caused some pipelines to report barrel and barrel-mile throughput that combines interstate and intrastate data.[11]

4. In addition to modifying the instructions for the page 700, the NOPR further proposed to require any pipeline that reported combined interstate and intrastate data in lines (1) through (12) on page 700 to file a revised page 700 of the 2010 Form 6 containing interstate-only data for 2009 and 2010.

5. On April 18, 2012, following the issuance of the NOPR and after the filing of comments in this proceeding, pipelines filed the 2011 Form 6, which contains page 700 data for 2011 and 2010.

II. Comments

6. Comments on the NOPR were due on October 3, 2011. Comments were filed by Valero Marketing and Supply Company (Valero); Air Transport Association of America and the National Propane Gas Association (ATA/NPGA); Magellan Pipeline, L.P. (Magellan); Association of Oil Pipelines (AOPL); [12] Enbridge Pipelines Inc.; and R. Gordon Gooch (Mr. Gooch). AOPL, Valero and Mr. Gooch filed reply comments, which the Commission accepts as they assisted our decision-making process.

III. Discussion

A. Clarification to Page 700 Requiring That All Pipelines Report Interstate-Only Barrels and Barrel Miles

1. The NOPR

7. The NOPR proposed to modify the instructions for line (11) and line (12) of page 700 to specify that pipelines must report only interstate barrels and interstate barrel-miles and not a combination of interstate and intrastate throughput.

2. Comments

8. Valero, ATA/NPGA, and Mr. Gooch support the clarification that pipelines are to report on page 700 only interstate barrels and barrel-miles. They state that this change is consistent with the purpose of page 700. Magellan also states that it supports the proposal. AOPL and Enbridge state that they do not oppose the proposal to change the instructions on page 700.

3. Discussion

9. The Commission adopts the proposal to clarify that the barrel and barrel-mile data reported on lines (11) and (12) of page 700 must include interstate-only data and may not comingle interstate and intrastate data. None of the parties oppose this change. This modification will ensure that the interstate-only revenues and costs currently required to be reported on page 700 are accompanied by interstate-only volumes.

B. Filing Revised Page 700

1. The NOPR

10. The NOPR proposed that pipelines that reported combined interstate and intrastate data in lines (1) through (12) on page 700 should file a corrected 2010 Form 6 page 700 containing interstate only data for 2009 and 2010.

2. Comments

i. Initial Comments

11. Valero, ATA/NPGA, and Mr. Gooch support requiring pipelines that included intrastate data in the page 700 on the 2010 Form 6 to file revised 2009 and 2010 data containing interstate-only information. In addition, Valero and ATA/NPGA request that the Commission require pipelines to re-file corrected page 700 going back to the 2005 Form 6. Valero, ATA/NPGA, and Mr. Gooch state that once the Commission has gathered the page 700 information, it should then re-evaluate the appropriateness of the current oil pipeline index [13] based upon the prior years' page 700 information. The current index adjustment is the result of the Commission's recent five-year review of the index conducted in 2010.[14] Shipper parties had proposed using page 700 in the 2010 five-year review of the index level and now claim that the Commission rejected the use of the page 700 data only due to the interstate/intrastate mismatch on page 700, which is being remedied by this proceeding. Valero argues that burden on pipelines of re-filing data back to 2005 is likely to be negligible. Extrapolating from the cost estimates in the NOPR, Valero asserts that re-filing corrected Form 6, page 700 going back to 2005 would be $171.10 for a pipeline that is re-filing all five-years.

12. In contrast, AOPL, Magellan, and Enbridge oppose requiring any pipeline

[4] 2009 data will be reported in Column C of the revised 2010 Form 6, page 700. 2010 data will be reported in Column B of the revised 2010 Form 6, page 700 and Column C of the revised 2011 Form 6, page 700. 2011 data will be reported in Column B of the revised 2011 Form 6, page 700.

[5] All jurisdictional pipelines are required to file page 700, including pipelines exempt from filing the full Form 6. 18 CFR §§ 357.2(a)(2) and (a)(3) (2011).

[6] *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts,* Order No. 620, FERC Stats. & Regs. ¶ 31,115, at 31,959, on reh'g, 94 FERC ¶ 61,130, at 61,498 (2001).

[7] Page 700 of the 2010 Form 6 contains data for 2010 and 2009. Following the issuance of the NOPR, pipelines filed the 2011 Form 6 on April 18, 2012, which contains page 700 data for 2011 and 2010.

[8] *Revision to Form No. 6,* 76 FR 46668 (Aug. 3, 2011), FERC Stats. & Regs. ¶ 32,677 (2011) (NOPR).

[9] Instruction number 4 on page 700 of the Form 6.

[10] Instruction number 5 on page 700 of the Form 6.

[11] Specifically, the instruction for line (12) on page 700 directs pipelines to report the same barrel-mile figures as those reported on line 33a of page 600 of the Form 6. Similarly, the instruction for line (11) on page 700 directs pipelines to report the same barrel figures as those reported on line 33b of page 601 of the Form 6. Thus, the instructions on page 700 specify that the throughput data reported on page 700 is the same throughput data that is reported on page 600–601. The instructions for page 600 direct pipelines to include ''all oils received'' by the pipeline, which consequently may have led some filers to report combined interstate and intrastate barrel-miles on lines (11) and (12) of page 700.

[12] AOPL states that it is a nonprofit trade association that represents the interests of common carrier oil pipelines. AOPL states that its members transport almost 85 percent of the crude oil and refined petroleum products shipped through pipelines in the United States.

[13] Under the index, an oil pipeline may change its ceiling rates effective every July 1 by multiplying the previous index year's ceiling rates by the index multiplier published by the Commission. The index is currently set at the Producer Price Index for Finished Goods (PPI–FG) plus an adjustment factor of 2.65 percent.

[14] *Five-Year Review of Oil Pipeline Pricing Index,* 133 FERC ¶ 61,228, at P 64–85 (2010) (2010 Five-Year Index Review), *reh'g denied,* 135 FERC ¶ 61,172, at P 27–43 (2011) (2010 Five-Year Index Review Rehearing).

that comingled interstate and intrastate costs to re-submit 2009 page 700 data. AOPL and Magellan assert that there is no compelling regulatory need for the 2009 data. AOPL argues that requiring 2009 data is a retroactive action that is contrary to the precepts of administrative law.[15] These parties do not raise objections to filing interstate-only 2010 data as part of the 2011 Form 6 to be filed on April 18, 2012.

13. Additionally, AOPL and Magellan dispute the NOPR's estimate that re-filing 2009 and 2010 data will only be one hour per filer. AOPL contends that it can be difficult to determine whether a movement is interstate or intrastate. Similarly, Magellan states that until the most recent 2010 Form 6 filed on April 18, 2011, Magellan filed comingled interstate and intrastate throughput and operating cost data on its page 700. Based upon its own experience, Magellan estimates that revisions to 2009 data for other pipelines would require forty man-hours over a three-week period involving multiple personnel.

ii. Reply Comments

14. In its reply comments, AOPL asserts that Valero, ATA/NPGA, and Mr. Gooch's proposal to require re-filing of page 700 data going back the 2005 Form 6 is an improper collateral attack on the Commission's decisions in the 2010 Five-Year Index Review. AOPL adds that if the Commission considers using page 700 to calculate the index in the future, the Commission must address the objections that were raised in the last five-year review.[16]

15. Also in its reply comments, AOPL reiterates its position that the request for corrected 2009 data has not been justified. AOPL contends that the burden of recalculating the 2010 Form 6, page 700 data substantially exceeds the one hour per filer estimated by the NOPR. AOPL states that sorting out the jurisdictional status of individual pipeline movements and recalculating the correct number of barrels and barrel-miles to each destination can be quite time consuming. Responding to Valero, ATA/NPGA, and Mr. Gooch, AOPL states that the further back in time the recalculation is required, the more difficult the data is to reconstruct. AOPL adds that there have been significant changes in pipeline ownership and operations since 2005, making it more difficult to reconstruct historic data.

16. In its reply comments, Valero denies that its request is a collateral attack on the 2010 Five-Year Index Review. Valero emphasizes the importance of the index level for shipper costs. Citing the NOPR's estimate of a total cost of $11,362.70 to correct the referenced reporting errors for the years 2009 and 2010, Valero asserts that requiring pipelines to file corrected data for 2006, 2007, and 2008 would cost $35,000. Valero disputes AOPL's and Magellan's claims regarding burden of filing revised interstate-only page 700 information. Valero observes that only one pipeline (Magellan) raised objections to the Commission's burden estimate. Valero states that pipelines such as Magellan already report intrastate and interstate revenue on page 301 of the Form 6. Thus, Valero concludes that pipelines should be fully aware of the corresponding interstate and intrastate movements, barrels, and barrel-miles, underlying these reported revenue amounts. Valero notes that pipelines are already required to report interstate-only data for lines (1) through (10).

3. Commission Determination

17. In the NOPR, the Commission proposed to require any pipeline that reported comingled interstate and intrastate data on lines (1) through (12) of the 2010 Form 6, page 700 to file revised 2010 Form 6, page 700 data for the years 2010 and 2009. In addition, following the issuance of the NOPR and after the filing of comments, pipelines filed the 2011 Form 6 on April 18, 2012, which contains page 700 data for 2011 and 2010.

18. Accordingly, the Commission directs any pipeline that reported combined interstate and intrastate data in any field on lines (1) through (12) of page 700 of its 2010 Form 6 or page 700 of its 2011 Form 6 to file revised page 700 data containing only interstate data for the years 2009, 2010 and 2011.

19. This action ensures the availability of complete interstate cost per barrel-mile data consistent with the Commission's regulation of interstate oil pipeline rates and the intent of page 700 to enable the Commission and shippers to analyze interstate pipeline costs. For example, the interstate-only information for the year 2009, 2010 and 2011 will provide the Commission with useful information during the next five-year review of the Commission's index level.[17] In the recent 2010 Five-Year Index Review, parties urged the Commission to modify its existing practice and to use page 700 data to calculate the oil pipeline index.[18] The Commission determined that it could not use data from page 700 because the page 700 instructions, which are being corrected by this order, created a ''mismatch between the page 700 total cost-of-service, which includes only interstate data, and the page 700 throughput data, which includes interstate and intrastate data.'' [19] Thus, by collecting the interstate-only page 700 data for 2009, 2010 and 2011, as directed by this order, the Commission will have available complete page 700 data for the five-year (2009–2014) period to use during the 2015 Five-Year Index Review if deemed appropriate.[20]

20. The Commission will not require pipelines to file revised page 700 data for the years prior to 2009. The sole purpose given by Valero, ATA/NPGA, and Mr. Gooch for requesting this information is to reconsider the conclusions of the Commission's 2010 Five-Year Index Review. The proposal to revisit the indexing calculation is a collateral attack on the recently completed 2010 Five-Year Index Review, which has been administratively final as of the Commission's order on rehearing.[21] A request to further reconsider the Commission's indexing methodology and to re-calculate the index level is unnecessary given the scope of that proceeding and the use of the Commission's established methodology.[22]

21. In response to AOPL, Magellan, and Enbridge, the Commission does not view the re-filing requirement for the

[15] AOPL Comments at 6 (citing *Bowen* v. *Georgetown Univ. Hospital,* 488 U.S. 204, 208 (1988)).

[16] AOPL Comments at 3 (citing Reply Comments of the Association of Oil Pipe Lines at 30–37, Docket No. RM10–25–000 (Sept. 20, 2010); Response of the Association of Oil Pipe Lines at 19–28, Docket No. RM10–25–000 (Oct. 20, 2010)).

[17] Under the index, an oil pipeline may change its ceiling rates effective every July 1 by multiplying the previous index year's ceiling rates by the index multiplier published by the Commission. The Commission reviews the index level every five years to determine whether it continues to track oil pipeline cost changes and to revise the index level if necessary. The Commission completed its most recent review, establishing an index level to be effective for the period July 1, 2011, through June 30, 2016, of the Producer Price Index for Finished Goods (PPI–FG) plus an adjustment factor of 2.65 percent. 2010 Five-Year Index Review, 133 FERC ¶ 61,228, *reh'g denied,* 135 FERC ¶ 61,172.

[18] The Commission has historically used data from elsewhere on the Form 6, not the page 700. Specifically the Commission has used data drawn from the Form 6: Carrier Property, page 110; Accrued Depreciation, page 111; Operating Revenues and Operating Expenses, page 114; Crude and Products Barrel-Miles, page 600. 2010 Five-Year Index Review, 133 FERC ¶ 61,228 at n.9.

[19] 2010 Five-Year Index Review, 133 FERC ¶ 61,228 at P 83.

[20] In each five-year review, the Commission has considered cost per barrel mile changes over the prior five year period. *E.g.,* 2010 Five-Year Index Review, 133 FERC ¶ 61,228 at P 5.

[21] 2010 Five-Year Index Review Rehearing, 135 FERC ¶ 61,172.

[22] *Id.* P 43.

2010 Form 6, page 700 and the 2011 Form 6, page 700 as creating an undue burden. The Commission is not persuaded that requiring pipelines to file revised 2009, 2010 or 2011 interstate only page 700 data will be as difficult or costly as AOPL, Magellan, and Enbridge suggest. This requirement will only affect pipelines that filed comingled interstate and intrastate data on the page 700. Regarding cost and revenue data, the Commission's directive does not impose an expense on pipeline parties that is not already embodied in existing Commission rules. The Commission clarified over a decade ago that cost and revenue information reported on lines (1) through (10) of page 700 data should include interstate-only data.[23] No party disputes this.

22. Regarding the barrel and barrel-mile data on lines (11) and (12), Magellan and AOPL contend that it is sometimes difficult to determine whether a shipment is interstate or intrastate. However, compliance with the existing requirement for pipelines to file only interstate costs and revenues on lines (1) through (10) requires a similar determination distinguishing between interstate shipments and intrastate shipments.[24]

C. Magellan's Request for Clarification

23. Magellan requests that the Commission permit flexibility in the methodology that pipelines adopt for allocating intrastate and interstate cost data in page 700. Magellan asserts that it is not possible to precisely segregate interstate cost data from intrastate cost data in all instances. Thus, Magellan asserts that a dual use pipeline will need to develop its own methodology for allocating such costs. Magellan states that prior to the Form No. 6 it filed in 2010, Magellan included both interstate and intrastate data on page 700. Magellan states that to do so, it developed and adopted a methodology to allocate operating expenses between interstate and intrastate movements based upon a barrel-mile analysis. Thus, Magellan states that it used this methodology to allocate operating expenses between interstate and intrastate movements on a barrel-mile basis.

24. The Commission will deny Magellan's request. We will not pass judgment in this proceeding on past or future page 700 submissions or the methodologies used to separate interstate from intrastate. The purpose of this order is to modify the instructions for lines (11) and (12) of page 700 related to reporting barrels and barrel-miles of throughput. In filing page 700, pipelines are required to follow the Commission's cost-of-service methodology. Magellan's request for clarification is further inapposite because the Commission clarified a decade ago in Order No. 620–A[25] that pipelines were only to report interstate (as opposed to interstate and intrastate) costs on lines (1) through (10) of page 700. To the extent that Magellan is concerned that its system creates novel circumstances, Magellan can seek specific guidance from the Commission or Commission Staff regarding the particular allocation methodology that it has adopted.

D. Other Issues

1. Comments

25. The parties raised multiple issues related to other aspects of page 700 or Form 6. Valero and ATA/NPGA contend that revisions should be made to page 700 so that each pipeline and/or system is separately reported on page 700.[26] Valero and ATA/NPGA also argue that pipelines should be required to provide the workpapers supporting page 700 to the shippers. ATA/NPGA also proposes to require pipelines to file the entire Form 6 before they can file for an index rate increase.[27]

26. Parties also raised issues not involving Form 6. ATA/NPGA further asserts that the Commission should change the interest rate applicable to refunds and reparations. ATA/NPGA and Mr. Gooch also raise issues related to alleged over-recoveries by certain pipelines. ATA/NPGA and Mr. Gooch argue that pipelines showing over-recoveries on their Form No. 6 annual report should be required to show cause why their rates should not be considered unjust and unreasonable. Mr. Gooch also objects to the Commission's regulations and policies regarding protests and complaints against oil pipeline rates. Valero asserts that the Commission should clarify that shippers retain the right to challenge, via protest or complaint, the 2011 index rate increases for pipelines that have filed deficient cost and revenue data on page 700. Mr. Gooch also asks that the Commission clarify precisely how barrel-miles may be used to demonstrate reasonable grounds to believe that the rate increase is ''substantially divergent'' from the costs so that the resulting rates may not be just and reasonable.

27. In its reply comments, AOPL states that these comments are beyond the scope. AOPL adds that the Shippers have repeatedly raised and the Commission has repeatedly rejected (a) proposals to segregate Form 6 and page 700 data by pipeline system and (b) require pipelines to file their page 700 workpapers with the Form 6.[28] AOPL states that nothing has changed since the Commission last rejected these proposals in 2008. Specifically responding to Mr. Gooch's comments regarding pipeline over-recoveries, AOPL states that shippers have the option to file a complaint to the extent that they are concerned with the level of individual pipeline rates.

28. In his reply comments, Mr. Gooch contends that his comments are not beyond the scope because, he argues, they are a constitutionally protected petition for a redress of grievances. Mr. Gooch also reiterates his comments regarding alleged over-recoveries by certain pipelines and asserts that it is difficult to file complaints.

2. Commission Decision

29. These issues are beyond the scope of this proceeding, which is limited to a minor correction to the throughput levels reported on page 700 and obtaining corrected data for 2009, 2010, and 2011. No party opposed the limited change to page 700 that was actually

[23] In Order No. 620–A, the Commission stated:

The Commission never intended in the Final Rule to have a pipeline report its non-jurisdictional costs on page 700.* * * [W]e take this opportunity to clarify Order No. 620 that the cost-of-service and revenue data reported on page 700 will be the cost of service and revenues related to FERC jurisdictional services.

94 FERC at 61,498.

[24] Page 301 of the Form 6 also requires pipelines to separately identify interstate revenues and intrastate revenues. Furthermore, under the Interstate Commerce Act (ICA), carriers must charge the correct rate on file for transportation service, and shippers are required to provide accurate information regarding the nature of their shipments in order to ensure that the correct rate is charged, which would include distinguishing interstate and intrastate rates. *See* 49 app. U.S.C. 10.

[25] Order No. 620–A, 94 FERC at 61,498.

[26] Currently, page 700 data contains total company data that is not broken down by pipeline or system. Valero Comments at 16. For example, Valero states that Mid-America Pipeline Company, LLC, has three distinct and separate systems, each with their own separate cost of service. Valero states that without being able to evaluate the cost of service for the specific segments at issue, it is impossible for shippers to determine the appropriateness or reasonableness of a particular segment's rates.

[27] Currently, pipelines with operating revenues less than $500,000 but more than $350,000 are only required to file page 301, ''Operating Revenues Accounts (Account 600)'' and page 700. 18 CFR § 357(a)(2) (2011). Pipelines with operating revenues less than $350,000 must only file page 700. *Id.* § 357(a)(3).

[28] AOPL Reply Comments at 5 (citing *Cost of Service Reporting and Filing Requirements for Oil Pipelines,* Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168–169 (1994); Order No. 620, FERC Stats. & Regs. ¶ 31,115 at 31,959; *Review of FERC Form Nos. 6 and 6–Q,* 125 FERC ¶ 61,308, at P 5–9 (2008)).

presented in the NOPR. Given the limited nature of the NOPR, this proceeding is not the appropriate forum for considering additional changes to FERC Form No. 6, such as the segregation of data or changing Commission policy to make available pipeline cost-of-service workpapers. Other issues, such as the Commission's policies regarding protests to pipeline rates, are also not before the Commission and will be addressed as they arise in litigation.

IV. Information Collection Statement

30. The Commission's estimate of the additional Public Reporting Burden and cost related to the final rule in Docket RM11–21–000 follow. The Commission recognizes that there will be a one-time increased burden involved in the initial implementation associated with: (a) Using only interstate figures for lines 1–12 of page 700, and (b) re-filing of revised data for lines (1) through (12) of page 700 for 2009, 2010, and 2011. Given the time it takes to verify data and file it with the Commission, we may have underestimated the one hour average per filer. Consequently we have revised the average burden to four hours for filing corrected 2009 and 2010 page 700 data. In this final rule, the Commission is also seeking revised 2011 data. Thus, we estimate an additional one-time burden of six hours per filer for the combined implementation and the re-filing of the page 700 for the 2009, 2010, and 2011 data. For the recurring effort involved in filing interstate data on lines (1) through (12) of page 700 for 2012 and future years, we estimate that the change in burden is negligible (after the initial implementation).

RM11–21, FERC Form 6	Annual No. of filers	Estimated additional one-time burden per filer (Hr.)	Total estimated additional one-time burden (Hr.)	Estimated additional one-time cost per filer ($)[29]
Implementation Burden (one-time); and Re-filing of Page 700, lines 1–12 for 2009–2010 (one-time)	[30] 166	6	996	$414.06
Total	166		996	$68,733.96

The additional one-time burden of 996 hours is being spread over the three years for the purposes of submittal to the Office of Management and Budget (OMB), giving an average additional annual burden of 332 hours.

Information Collection Costs: The Commission seeks comments on the costs and burden to comply with these requirements.

Total additional one-time cost = $68,733.96.

Title: FERC Form No. 6, Annual Report of Oil Pipeline Companies.

Action: Revision to the FERC Form 6.

OMB Control No: 1902–0022.

Respondents: Public and non-public utilities.

Frequency of Responses: Initial implementation and one-time re-filing of selected data for 2009, 2010, and 2011.

Necessity of the Information: This action ensures the availability of complete interstate cost per barrel-mile data consistent with the Commission's regulation of interstate oil and petroleum product pipeline rates and the intent of page 700 to enable the Commission and shippers to analyze interstate pipeline costs.

Internal review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

31. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Please reference OMB Control No. 1902–0022, FERC–6 and the docket number of this rulemaking in your submission.

V. Environmental Analysis

32. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[31] The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.[32] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

33. The Regulatory Flexibility Act of 1980 (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[33] Agencies are not required to make such an analysis if a rule would not have such an effect.

34. The Commission does not believe that this rule will have an adverse impact on small entities, nor will it impose upon them any significant costs of compliance. The Commission identified 29 small entities as respondents to the requirements in the proposed rule.[34] As explained above,

[29] Based on an estimated average cost per employee for 2012 (including salary plus benefits) of $143,540, the estimated average hourly cost per employee is $69.01. The average work year is 2,080 hours.

[30] Although 166 pipelines file page 700, the number of pipelines that must file corrected information will likely be substantially less. Some pipelines only transport interstate shipments and thus would have reported only interstate data on page 700. Other pipelines may have reported only interstate data on lines (1)–(12) on page 700, and these pipelines would not need to file additional data.

[31] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 486 FR 1750 (Jan. 22, 1988), FERC Stats. & Regs. ¶ 30,783 (1987).

[32] 18 CFR § 380.4(a)(5).

[33] 5 U.S.C. 601–12.

[34] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Size Standards component of the North American Industry

Continued

the change to page 700 will not increase the burden of preparing page 700. Further, the time required to implement changes and to file any necessary one-time revision of the page 700 data as specified in this order is minimal (an average of six hours per company). The Commission does not estimate that there are any other regulatory burdens associated with this final rule. Thus, the Commission certifies that the final rule would not have a significant economic impact on a substantial number of small entities.

VII. Effective Date and Congressional Notification

35. These regulations are effective December 31, 2012. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Classification System defines a small oil pipeline company as one with less than 1,500 employees. See 13 CFR 121, 201.

VIII. Document Availability

36. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

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

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

By direction of the Commission.

Kimberly D. Bose,

Secretary.

Note: Appendix A will not be published in the Code of Federal Regulations.

Appendix A—Summary of Proposed Changes to FERC Form 6, Page 700

Instruction 4 is revised to read as follows:

Enter on line 11, columns b and c, the interstate throughput in barrels for the current and previous calendar years.

Instruction 5 is revised to read as follows:

Enter on line 12, columns b and c, the interstate throughput in barrel-miles for the current and previous calendar years.

Line 11 is revised to read as follows:

Total Interstate Throughput in Barrels

Line 12 is revised to read as follows:

Total Interstate Throughput in Barrel-Miles

Note: Appendix B will not be published in the Code of Federal Regulations.

Appendix B: Revised Page 700 to Form 6

Name of Respondent	This Report Is: ☐ (1) An Original ☐ (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of _____

Annual Cost of Service Based Analysis Schedule

1.) Use footnotes when particulars are required or for any explanations.
2.) Enter on lines 1-9, columns (b) and (c), the value the respondent's Operating & Maintenance Expenses, Depreciation Expense, AFUDC Depreciation, Amortization of Deferred Earnings, Rate Base, Rate of Return, Return, Income Tax Allowance, and Total Cost of Service, respectively, for the end of the current and previous calendar years. The values shall be computed consistent with the Commission's Opinion No. 154-B et al. methodology. Any item(s) not applicable to the filing, the pipeline company shall report nothing in columns (b) and (c).
3.) Enter on line 10, columns (b) and (c), total interstate operating revenue, as reported on page 301, for the current and previous calendar years.
4.) Enter on line 11, columns b and c, the interstate throughput in barrels for the current and previous calendar years.
5.) Enter on line 12, columns b and c, the interstate throughput in barrel-miles for the current and previous calendar years.
6.) If the company makes major changes to its application of the Opinion No. 154-B et al. methodology, it must describe such changes in a footnote, and calculate the amounts in columns (b) and (c) of lines No. 1-12 using the changed application.
7.) A respondent may be requested by the Commission or its staff to provide its workpapers which support the data reported on page 700.

Line No.	Item (a)	Current Year Amount (in dollars) (b)	Previous Year Amount (in dollars) (c)
1	Operating and Maintenance Expenses		
2	Depreciation Expense		
3	AFUDC Depreciation		
4	Amortization of Deferred Earnings		
5	Rate Base		
6	Rate of Return % (10.25% -10.25)		
7	Return on Rate Base		
8	Income Tax Allowance		
9	Total Cost of Service		
10	Total Interstate Operating Revenues		
11	Total Interstate Throughput in Barrels		
12	Total Interstate Throughput in Barrel-Miles		

FERC FORM No. 6 (REV. 12-00) **Page 700**

[FR Doc. 2012–23806 Filed 9–28–12; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM12–20–000; Order No. 766]

Delegation of Authority Regarding Electric Reliability Organization's Budget, Delegation Agreement, and Policy and Procedure Filings

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Commission is issuing this Final Rule to revise its delegations of authority to align with an internal Commission reorganization, which reassigned certain responsibilities for specific Electric Reliability Organization (ERO) filings. In particular, this Final Rule transfers delegated authority, from the Director of the Commission's Office of Electric Reliability to the Director of the Commission's Office of Energy Market Regulation, to act on ERO filings pertaining to ERO annual budgets, ERO delegation agreements, and ERO policies and procedures.

DATES: This rule is effective October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Christine A. Powell, Office of the General Counsel, Federal Energy Regulatory Commission, Room 104–04, 888 First Street NE., Washington, DC 20426, 202–502–6608.

SUPPLEMENTARY INFORMATION:

140 FERC ¶ 61,202

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

(Issued September 20, 2012)

I. Background

1. The Energy Policy Act of 2005 added section 215 to the Federal Power Act (FPA), which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[1] Under this section, the ERO must, among other things, ''allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section,'' [2] and the Commission also must issue regulations authorizing the ERO to enter into an agreement to delegate authority to a Regional Entity if the Regional Entity meets certain conditions.[3]

2. In Order No. 672, the Commission adopted regulations in accordance with FPA sections 215(c)(2)(B) and 215(e)(4): 39.4, Funding of the Electric Reliability Organization; 39.8, Delegation to a Regional Entity; and 39.10, Changes to an Electric Reliability Organization Rule or Regional Entity Rule.[4]

3. Section 39.4 of the Commission's regulations requires the ERO to file with

[1] 16 U.S.C. 824o.
[2] *Id.* 824o(c)(2)(B).
[3] *Id.* 840o(e)(4).
[4] *Id.*

the Commission its proposed annual budget for statutory and non-statutory activities 130 days before the beginning of its fiscal year.[5] This filing must also contain the line item budgets of each Regional Entity for statutory and non-statutory activities, and include supporting materials, including the ERO's and each Regional Entity's complete business plan and organization chart, and an explanation of the proposed collection of all dues, fees and charges and the proposed expenditure of funds collected.[6] After notice and opportunity for hearing, the Commission will issue an order accepting, rejecting, remanding or modifying the ERO's proposed budget and business plan no later than sixty days in advance of the beginning of the ERO's fiscal year.[7] If the ERO requires additional funding before or after the fiscal budget review process, it may file with the Commission for authority to collect a special assessment; it must demonstrate that the request is pursuant to an unforeseen, extraordinary circumstance.[8]

4. Section 39.8 of the Commission's regulations requires the ERO to submit to the Commission for Commission approval any proposal to delegate the ERO's authority to a Regional Entity for the purpose of proposing or enforcing Reliability Standards.[9] Alternatively, if a Regional Entity is unable to negotiate a delegation agreement with the ERO within a reasonable amount of time, it may apply to the Commission to assign to it the ERO's authority.[10]

5. Section 39.10 of the Commission's regulations requires the ERO to file with the Commission for Commission approval any proposed organization rule or rule change, including any Regional Entity rule or rule change.[11]

II. Discussion

6. Due to an internal Commission reorganization, the Office of Energy Market Regulation (OEMR) will be responsible to review ERO filings made pursuant to sections 39.4, 39.8, and 39.10 of the Commission's regulations. Accordingly, this Final Rule revises the delegations to the Director of OEMR, contained in section 375.307, to add authority to act pursuant to delegated authority on filings made pursuant to the aforementioned sections; thus, it reassigns from the Director of the Office of Electric Reliability (OER) to the Director of OEMR the delegations authorizing OER to act pursuant to sections 39.4, 39.8, and 39.10.

7. New section 375.307(a)(2)(v) delegates to the Director of OEMR the authority to take appropriate action on budget, business plan, and special assessment filings made pursuant to section 39.4.

8. New section 375.307(a)(2)(vi) delegates to the Director of OEMR the authority to take appropriate action on proposed ERO or Regional Entity organization rules or rule changes made pursuant to section 39.10.

9. New section 375.307(a)(2)(vii) delegates to the Director of OEMR the authority to take appropriate action on delegation agreement filings by the ERO or a Regional Entity made pursuant to section 39.8.

10. This Final Rule also revises that portion of section 375.303(a)(2)(i) stating that OER has the authority to approve revisions to ERO and Regional Entity rules or procedures, to reflect the change in Commission organization.

III. Information Collection Statement

11. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[12] This Final Rule contains no new or revised information collections. Therefore, OMB review of this Final Rule is not required.

IV. Environmental Analysis

12. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[13] Excluded from this requirement are rules that are procedural, ministerial, or internal administrative and management actions, programs or decisions.[14] This Rule falls within this exception; consequently, no environmental consideration is necessary.

V. Regulatory Flexibility Act

13. The Regulatory Flexibility Act of 1980 (RFA)[15] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This Final Rule concerns a matter of internal agency procedure and it will not have such an impact. An analysis under the RFA is therefore not required.

VI. Document Availability

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

15. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document (i.e., the sub docket number, 000) in the docket number field.

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

VII. Effective Date and Congressional Notification

17. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules do not apply to this Final Rule because the rule concerns internal agency procedure and practice and will not substantially affect the rights of non-agency parties.

18. These regulations are effective on October 1, 2012. The Commission finds that notice and public comments are unnecessary because this Rule concerns only internal agency procedure and practice. Therefore the Commission finds good cause to waive the notice period otherwise required before the effective date of this Final Rule.

List of Subjects in 18 CFR Part 375

The Commission.

By the Commission.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I, Title 18, Code of Federal Regulations, as follows:

[5] 18 CFR 39.4(b).

[6] *Id.*

[7] *Id.* 39.4(c).

[8] *Id.* 39.4(d).

[9] 18 CFR 39.8.

[10] *Id.* 39.8(f).

[11] *Id.* 39.10(b).

[12] 5 CFR 1320.

[13] *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[14] 18 CFR 380.4(a)(1).

[15] 5 U.S.C. 601–612.

PART 375—THE COMMISSION

■ 1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

■ 2. In § 375.303, paragraph (a)(2)(i) is revised to read as follows:

§ 375.303 Delegations to the Director of the Office of Electric Reliability.

* * * * *

(a) * * *

(2) * * *

(i) Approve uncontested applications.

* * * * *

■ 3. Section 375.307 is amended by revising (a)(2)(iv) and adding paragraphs (a)(2)(v), (vi), and (vii) to read as follows:

§ 375.307 Delegations to the Director of the Office of Energy Market Regulation.

* * * * *

(a) * * *

(2) * * *

(iv) Sign and issue deficiency letters for filings under Federal Power Act sections 203, 204, 215, and 305(b).

(v) Take appropriate action on uncontested Electric Reliability Organization budget, business plan, and special assessment filings made pursuant to § 39.4 of this chapter.

(vi) Take appropriate action on uncontested filings proposing Electric Reliability Organization or Regional Entity organization rules or rule changes made pursuant to § 39.10 of this chapter.

(vii) Take appropriate action on uncontested delegation agreement filings by the Electric Reliability Organization or Regional Entity made pursuant to section 39.8 of this chapter.

* * * * *

[FR Doc. 2012–24104 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AA63

Repeal of the Final Rule Imposing Special Measures and Withdrawal of the Findings of Primary Money Laundering Concern Against Myanmar Mayflower Bank and Asia Wealth Bank

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Final rule.

SUMMARY: This document repeals FinCEN's final rule, ''Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank'' of April 12, 2004, and withdraws the findings of Myanmar Mayflower Bank and Asia Wealth Bank as Financial Institutions of Primary Money Laundering Concern of November 25, 2003, issued pursuant to 31 U.S.C. 5318A of the Bank Secrecy Act (the ''BSA'').

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, (800) 949–2732 and select Option 1.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (''USA PATRIOT Act''). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the BSA, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332, to promote the prevention, detection, and prosecution of money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X.[1] The Secretary of the Treasury (the ''Secretary'') has delegated his authority to administer the BSA and its implementing regulations to the Director of the Financial Crimes Enforcement Network.[2]

Section 311 of the USA PATRIOT Act (''section 311'') added Section 5318A to the BSA, granting the Secretary the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of international transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and domestic financial agencies to take certain ''special measures'' against the primary money laundering concern.[3]

Taken as a whole, Section 5318A provides the Secretary with a range of options that can be adapted to target specific money laundering and terrorist financing concerns most effectively. These options provide the authority to bring additional and useful pressure on those jurisdictions and institutions that pose money-laundering threats and the ability to take steps to protect the U.S. financial system. Through the imposition of various special measures, FinCEN can: Gain more information about the concerned jurisdictions, financial institutions, transactions, and accounts; monitor more effectively the respective jurisdictions, financial institutions, transactions, and accounts; and, ultimately, protect U.S. financial institutions from involvement with jurisdictions, financial institutions, transactions, or accounts that pose a money laundering concern.

B. Myanmar Mayflower Bank and Asia Wealth Bank

Myanmar Mayflower Bank was incorporated in 1996 as a full-service commercial bank in Rangoon, Burma. At the time of the final rule, the bank maintained 25 branches and had 1,153 employees. The Banker's Almanac and Dun and Bradstreet reports indicated that Mayflower Bank was incorporated in 1994.

Asia Wealth Bank started its banking operation in 1995, was one of the largest private banks in Burma, and offered a wide variety of banking services. In August 2000, Asia Wealth Bank held 52 percent of the market share in fixed deposits of Burmese banks (over U.S. $23 billion). At the end of March 2001, it had 39 branches with a total of 3,200 employees (in December 2002, Dun and Bradstreet indicated only 2,200 employees).

II. The Finding, Final Rule, and Subsequent Developments

A. The Finding and Final Rule

Based upon review and analysis of relevant information, consultations with relevant Federal agencies and departments, and after consideration of

[1] On October 26, 2010, FinCEN issued a final rule creating a new Chapter X in Title 31 of the Code of Federal Regulations for the BSA regulations. *See* 75 FR 65806 (October 26, 2010) (Transfer and Reorganization of Bank Secrecy Act Regulations Final Rule) (referred to herein as the ''Chapter X Final Rule''). The Chapter X Final Rule became effective on March 1, 2011.

[2] Therefore, references to the authority of the Secretary under section 311 of the USA PATRIOT Act apply equally to the Director of the Financial Crimes Enforcement Network.

[3] Available special measures include requiring: (1) Recordkeeping and reporting of certain financial transactions; (2) collection of information relating to beneficial ownership; (3) collection of information relating to certain payable-through accounts; (4) collection of information relating to certain correspondent accounts; and (5) prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts. 31 U.S.C. 5318A(b)(1)–(5). For a complete discussion of the range of possible countermeasures, *see* 68 FR 18917 (April 17, 2003) (proposing to impose special measures against Nauru).

the factors enumerated in section 311, the Secretary found that reasonable grounds existed for concluding that Myanmar Mayflower Bank and Asia Wealth Bank (''the Banks'') were financial institutions of primary money laundering concern.[4] Based on that finding, FinCEN issued a notice of proposed rulemaking to impose the special measure authorized under 31 U.S.C. 5318A(b)(5) against the Banks.[5]

After consulting with required Federal agencies and parties, reviewing public comments received on the notice of proposed rulemaking, and considering additional relevant factors, FinCEN issued a final rule on April 12, 2004 that imposed the special measure authorized under 31 U.S.C. 5318A(b)(5) against the Banks.[6] The final rule requires covered financial institutions to terminate any correspondent or payable-through accounts for, or on behalf of, the Banks, and to apply due diligence reasonably designed to guard against indirect use of their correspondent or payable-through accounts by the Banks.

III. Withdrawal of the Finding of Primary Money Laundering Concern Against Myanmar Mayflower Bank and Repeal of the Final Rule

Subsequent to the issuance of the final rule related to the Banks, the Government of Burma revoked the licenses of the Banks in 2005 and neither financial institution currently exists.[7] Therefore, FinCEN hereby withdraws the finding that Myanmar Mayflower Bank and Asia Wealth Bank are financial institutions of primary money laundering concern, as of October 1, 2012. FinCEN is also repealing the final rule, as published in the **Federal Register** on April 12, 2004 (69 FR 19098) as 31 CFR 103.187 (now 31 CFR 1010.652), that was based upon the finding. FinCEN's withdrawal of the finding of primary money laundering concern against the Banks and the repeal of the related final rule do not acknowledge any remedial measures taken by the Banks, but are the result of the revocation of their licenses by the Government of Burma and the cessation of their business activities. Notwithstanding this document, the finding that the jurisdiction of Burma is of primary money laundering concern and the related outstanding 311 final rule imposing the special measure authorized under 31 U.S.C. 5318A(b)(5) on the jurisdiction of Burma are still in effect.[8]

IV. Regulatory Matters

Although section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) requires notice and an opportunity for comment before an agency issues a final rule as well as a 30-day delayed effective date, it provides that an agency may dispense with these procedures when good cause exists. In this final rule, FinCEN has found that public comment procedures and delaying the effective date of the removal of the regulation would be contrary to the public interest. As discussed in this preamble, the Government of Burma revoked the licenses of the Banks that are the subject of the regulations and neither financial institution currently exists. Accordingly, FinCEN has found that good cause exists to dispense with prior notice and comment and a delay in effective date.

A. Executive Order 12866

It has been determined that this rulemaking is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

B. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under Section 202 and has concluded that on balance the rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), FinCEN certifies that this final regulation likely will not have a significant economic impact on a substantial number of small entities. The regulatory changes in this final rule merely remove the current obligations for financial institutions under 31 CFR 103.187 (now 31 CFR 1010.652).

D. Paperwork Reduction Act

This regulation discontinues the Office of Management and Budget Control Number 1506–AA63 assigned to the final rule and, as a result, reduces the estimated average burden of one hour per affected financial institution, totaling 5,000 hours. This regulation contains no new information collection requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d) et seq.).

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Authority and Issuance

For the reasons set forth above, 31 CFR part 1010 is amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for 31 CFR part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

§ 1010.652 [Removed]

■ 2. Section 1010.652 is removed.

Dated: September 25, 2012.

Peter S. Alvarado,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2012–23995 Filed 9–28–12; 8:45 am]

BILLING CODE 4810–02–P

[4] *See* 68 FR 66298 (November 25, 2003).

[5] *See* 68 FR 66305 (November 25, 2003).

[6] *See* 69 FR 19098 (April 12, 2004).

[7] *See* International Narcotics Control Strategy Report, Volume II, Department of State, at 120 (March 2007).

[8] Burma was described at length in the November 25, 2003 notice of proposed rulemaking, 68 FR 66305, and April 12, 2004 final rule, 69 FR 19100. Today's repeal of the final rule and withdrawal of the findings of primary money laundering concern against Myanmar Mayflower Bank and Asia Wealth Bank do not provide an update on jurisdictional developments nor does it withdraw the November 25, 2003 finding that the jurisdiction of Burma is of primary money laundering concern (68 FR 66298). Further discussion of jurisdictional developments can be found at the U.S. Department of State's ''2012 International Narcotics Control Strategy Report'' at page 68 (*http://www.state.gov/documents/organization/185866.pdf*).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0780]

Special Local Regulations for Marine Events; San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations in the navigable waters of San Francisco Bay for the annual U.S. Navy and City of San Francisco sponsored Fleet Week Parade of Navy Ships, Blue Angels Flight Demonstrations, Ship Tours, and America's Cup World Series regattas to be held from October 4, 2012 through October 7, 2012. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, no persons or vessels may enter the regulated area without permission of the Captain of the Port (COTP) or her designated representative.

DATES: The regulations in 33 CFR 100.1105(c)(1), regulated area ''Alpha'' for Navy Parade of Ships, will be enforced from 10:30 a.m. to 12:15 p.m. on October 6, 2012. The regulations in 33 CFR 100.1105(c)(2), regulated area ''Bravo'' for the U.S. Navy Blue Angels Activities and America's Cup World Series regattas will be enforced from noon until 6:30 p.m. on October 4; from 11:45 a.m. until 6 p.m. on October 5; from 11:45 a.m. until 6:30 p.m. on October 6, 2012; and from 11:15 a.m. until 4 p.m. on October 7, 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 the special local regulation for the annual San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration in accordance with 33 CFR 100.1105.

Regulations for the Navy Parade of Ships will be enforced from 10:30 a.m. to 12:15 p.m. on October 6, 2012. Under the provisions of 33 CFR 100.1105, no person or vessel may enter or remain in regulated area ''Alpha'' within 500 yards of all parade vessels. No person or vessel shall anchor, block, loiter in, or impede the transit of the ship parade participants or official patrol vessels.

During the 2012 Fleetweek events, America's Cup World Series regattas will be held in conjunction with the U.S. Navy Blue Angels Activities as per an official agreement made between the America's Cup Race Management and the Fleetweek program coordinators. Regulations for the U.S. Navy Blue Angels Activities and the America's Cup World Series regattas will be enforced from noon until 6:30 p.m. on October 4, from 11:45 a.m. until 6 p.m. on October 5, from 11:45 a.m. until 6:30 p.m. on October 6, 2012, and from 11:15 a.m. until 4 p.m. on October 7, 2012. Within regulated area ''Bravo'' established in 33 CFR 100.1105(b)(2), no person or vessel may enter or remain within the waters of San Francisco Bay bounded by a line connecting the following points: beginning at 37° 49.096″ N, 122° 27.055' W, thence to 37° 49.389″ N, 122° 24.354″ W, thence to 37° 48.888″ N, 122° 24.272″ W, thence to 37° 48.598' N, 122° 26.973″ W and thence to the point of beginning (''Fleet Week box'') (NAD 83).

In the southern portion of regulated area ''Bravo,'' the Coast Guard will enforce a no-loitering area 75-yards south of the Fleet Week box, extending west from Pier 45 and ending at the western edge of the Fleet Week box. While transiting this no-loitering area, vessels shall proceed at a safe speed as not to cause a wake. This requirement will be strictly enforced to preserve the safety of both life and property. Except for persons or vessels authorized by the Patrol Commander, no person or vessel may anchor or loiter in the areas described above within regulated area ''Bravo.''

When hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, a person or vessel shall come to an immediate stop. Persons or vessels shall comply with all directions given; failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.1105 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 this enforcement period via the Local Notice to Mariners, and Broadcast Notice to Mariners.

Dated: September 18, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–24044 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0886]

RIN 1625–AA00

Safety Zone; Submarine Cable Installation Project; Chicago River, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Chicago River near Chicago, Illinois. This zone is intended to restrict vessels from a portion of the Chicago River due to the installation of submarine cables in the vicinity of both the West Adams Street and West Jackson Boulevard bridges. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the installation of submarine cables in the vicinity of both the West Adams Street and West Jackson Boulevard bridges.

DATES: This rule will be effective between 4 a.m. on September 28, 2012 and 5 p.m. on October 5 and 8, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0886 and are available online by going to *http://www.regulations.gov*, inserting USCG–2012–0886 in the ''Keyword'' box, and then clicking ''search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing 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 doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels from the hazards associated with the installation of cable into the Chicago River, which are discussed further below.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between September 28, 2012 and October 8, 2012 John Burns Construction Company will be installing submarine cables beneath the waters of the Chicago River at both the West Adams Street and West Jackson Boulevard bridges. The Captain of the Port, Sector Lake Michigan, has determined that this cable installation project will pose a significant risk to public safety and property. Such hazards include collisions between contractors and vessel traffic, and the striking of keels and propellers against cable lines.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port, Sector Lake Michigan, has determined that this temporary safety zone is necessary to ensure the safety of vessels during the installation. This zone will be enforced between 4 a.m. and 5 p.m. on September 28, 2012 and October 5, and 8, 2012.

The safety zone will encompass all waters of the Chicago River in the vicinity of the West Adams Street and West Jackson Boulevard bridges.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

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 might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chicago River, Chicago, IL on September 28, and October 5 and 8, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only 3 days. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

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** section 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 INTFORMATION 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 an 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 the establishment of a safety zone and, therefore it 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 parts 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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0886 to read as follows:

§ 165.T09–0886 Safety Zone; Submarine Cable Installation Project, Chicago River, Chicago, IL.

(a) *Location.* The safety zone will encompass all waters of the Chicago River (South Branch) in the vicinity of the West Adams Street and West Jackson Boulevard bridges.

(b) *Effective and enforcement period.* This regulation is effective and will be enforced between 4 a.m. and 5 p.m. on September 28, 2012 and October 5 and 8, 2012. If the Captain of the Port elects to suspend enforcement of this safety zone before its effectiveness expires, he will make the public aware of such suspension via a local Broadcast Notice to Mariners.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port, Sector Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his on-scene representative.

Dated: September 21, 2012.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2012–24183 Filed 9–27–12; 4:15 pm]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1102; EPA–R05–OAR–2008–0782; FRL–9714–7]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; PBR and PTIO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving six Permit-by-Rule (PBR) provisions, a Permit to

Install and Operate (PTIO) program, two permanent exemptions from the Permit to Install (PTI) requirement and a general permit program as additions to Ohio's State Implementation Plan (SIP) under the Clean Air Act. The Ohio Environmental Protection Agency (OEPA) has requested these rule revisions to make its air pollution permit program more efficient. Approving these additions will make the PBRs, PTIOs, and general permits federally enforceable. Because these rule revisions will make Ohio's air permit program more efficient while continuing to protect human health and the environment, EPA is taking direct final action to approve the revisions.

DATES: This direct final rule will be effective November 30, 2012, unless EPA receives adverse comments by October 31, 2012. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1102; EPA–R05–OAR–2008–0782, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 385–5501.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA R05 OAR 2007–1102; EPA–R05–OAR–2008–0782. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kaushal Gupta, Environmental Engineer, at (312) 886–6803 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kaushal Gupta, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6803, *gupta.kaushal@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What does this document address?
II. What program changes is EPA approving?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What does this document address?

This document addresses requests from Ohio to incorporate the following rules into the Ohio SIP.

1. PBR and Permanent Exemption Provisions

Ohio's federally approved construction program, Ohio Administrative Code (OAC) 3745–31 (''Permits to Install New Sources of Pollution'') provides the authority for OEPA to issue PTIs to new sources of air pollution or modifications to existing sources of air pollution. For attainment areas, the program was conditionally approved into Ohio's SIP on October 10, 2001 (66 FR 51570) and fully approved on January 22, 2003 (68 FR 2909). For nonattainment areas, the program was fully approved on January 10, 2003 (68 FR 1366). Included in this program at OAC 3745–31–03 (''Permit to install exemptions'') are exemptions from the requirement to obtain a PTI before constructing or modifying a source of air pollution. The types of exemptions include permanent exemptions, Federal-based exemptions, discretionary exemptions, and PBR exemptions (exempting certain sources from the PTI requirement as long as they comply with the relevant provisions of the PBR rule).

On April 24, 2006, EPA received a request from OEPA to approve the addition of two permanent exemptions and six PBR provisions to the SIP. This document addresses the request.

2. PTIO and General Permit Programs

Prior to the rulemaking, a minor source (that is, a source not subject to Title V of the Clean Air Act) in Ohio would be issued both a PTI under OAC 3745–31 and a Permit to Operate (PTO) under OAC 3745–35 (''Air Permits to Operate and Variances''). Ohio is now combining both permit programs into a new PTIO program. Under the PTIO program, a minor source would be issued one PTIO instead of a PTI and a PTO.

On June 30, 2008, the state regulations to implement the PTIO program became effective and OAC 3745–35 was rescinded. On July 18, 2008, OEPA submitted to EPA a request to approve the addition of the PTIO program and a general permit program to the SIP. The changes to Ohio's SIP involve the modification of various parts of OAC 3745–31, the removal of OAC 3745–35, and the addition of OAC 3745–31–29 to enable the issuance of federally enforceable general PTIs and general PTIOs. This document addresses the request.

II. What program changes is EPA approving?

1. PBR and Permanent Exemption Provisions

EPA is approving the requested modifications and additions to the permanent exemption and PBR provisions in OAC 3745–31–03. The significant changes are as follows.

The permanent exemption from the requirement to obtain a PTI for organic liquid storage tanks is being expanded to cover larger tanks. Currently, the exemption only applies to tanks with a capacity less than 10,000-gallons; the modification would exempt tanks of less than 19,815-gallon capacity (except for gasoline storage tanks at bulk gasoline plants), tanks between 19,815 and 39,894-gallon capacity with maximum true vapor pressure less than 2.176 pounds per square inch absolute (psia), and tanks of 39,894-gallon or greater capacity with maximum true vapor pressure less than 0.508 psia. Note that permanent exemptions under this rule do not exempt any source from the requirements of the Clean Air Act, including but not limited to, being considered for purposes of determining whether a facility constitutes a major source or being included in a Title V permit application.

PBR exemptions from the requirement to apply for individual PTIs are being added for auto body refinishing facilities, gasoline dispensing facilities with Stage I controls, gasoline dispensing facilities with Stage I and Stage II controls, boilers and heaters, small printing facilities, and mid-size printing facilities that meet certain size, throughput, and process requirements. Each PBR exemption has requirements for emission limitation and/or control, monitoring and/or recordkeeping, reporting, and testing. Furthermore, the PBR exemptions rule now includes general provisions for recordkeeping, record retention, notification, and reporting requirements that apply to all sources utilizing the PBR exemptions. The general provisions clarify that the PBR exemptions do not exempt any source from the requirements of the Clean Air Act, including but not limited to, being considered for purposes of determining whether a facility constitutes a major source or being included in a Title V permit application.

In a December 1, 2008 letter, Ohio provided technical support for the PBR and PTIO provisions to demonstrate that the provisions are protective of the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstrations and visibility, and are not in violation of section 193 of the Clean Air Act, ''General Savings Clause.''

In a February 14, 2012 letter, Ohio provided a survey of the estimated emissions from the state's organic liquid storage tanks to demonstrate that the modified permanent exemption for organic liquid storage tanks would have no negative impact on air quality. In a May 24, 2012 email, Ohio clarified that in the context of this exemption, an ''organic liquid'' is an organic compound at the temperature and pressure experienced inside the storage tank, and that the organic liquid would have to remain a liquid to qualify for the exemption. The email further clarified that the ''submerged fill'' mentioned in this rule is the same as a ''submerged fill pipe'' as defined in OAC 3745–21–01(C)(6).

2. PTIO and General Permit Programs

OAC Chapter 3745–35, which contained the rules for PTOs and Federally Enforceable State Operating Permits, is being rescinded in its entirety from the SIP. OAC 3745–31–29 (''General permits-to-install and general PTIO'') is being added to the SIP to make Ohio's general PTIs and general PTIOs federally enforceable. General PTIs and general PTIOs are based on model permits issued by OEPA. Sources may apply for coverage under a model permit rather than apply for individual permits. Only minor sources may qualify for coverage under a general permit.

Other, previously approved parts of Ohio's SIP are being modified as follows:

a. OAC 3745–15–03 (''Submission of emission information''), is being modified to replace all instances of ''Board Director'' to ''Director.''

b. OAC 3745–31–01 (''Definitions''), which provides definitions for the permit program, is being expanded to include definitions for ''permits to install and operate,'' ''PTIOs,'' and ''express permit processing.'' The SIP revision submittal includes changes to the definitions of ''Air contaminant source'' and ''Major stationary source'' but, per OEPA's request in its July 18, 2008 submittal, we are not approving these two changes at this time.

c. OAC 3745–31–02 (''Requirements'') now requires sources to obtain PTIs or PTIOs before installation or modification, whether or not such sources are subject to Title V of the Clean Air Act (administered in Ohio under OAC 3745–77). Existing PTIs and PTOs remain effective until superseded by PTIOs. Note that this rule no longer contains the previously approved rule's provisions applying to solid waste disposal facilities and land application of sludge.

d. OAC 3745–31–04 (''Applications'') is being expanded to require PTIO applications.

e. OAC 3745–31–05 (''Criteria for decision by the director'') is being expanded to require PTIOs to contain the Best Available Technology (BAT), which is a previously SIP-approved requirement. Certain terms from the rescinded OAC 3745–35, such as conditional permits, are being incorporated into the new PTIO rules. Per Ohio's request in its July 18, 2008 submittal, we are not presently approving the provision that exempts sources with the potential to emit less than 10 tons per year from the BAT requirement.

f. OAC 3745–31–06 (''Termination'') is being rescinded in its entirety and replaced by a new OAC 3745–31–06 (''Completeness determination, processing requirements, public participation, public notice, and issuance'').

g. OAC 3745–31–07 (''Revocation'') is being expanded to cover termination, expiration, renewal, revision, and transfer.

h. OAC 3745–31–08 (''Procedure for decision by director'') is being rescinded in its entirety and replaced by a new OAC 3745–31–08 (''Registration status permit-to-operate'') that provides the ongoing requirements for non-Title V sources that received registration status under the rescinded OAC 3745–35.

i. OAC 3745–31–09 (''Air permit-to-install completeness determinations, public participation, and public notice'') is being rescinded in its entirety and replaced by a new OAC 3745–31–09 (''Variances on operation'') that has the provisions for variances that were in the rescinded 3745–35.

j. OAC 3745–31–10 (''Air stationary source obligations'') is undergoing relocation of certain terms to other parts of the SIP.

k. OAC 3745–31–20 is undergoing minor revisions to update rule citations.

l. OAC 3745–31–22 is undergoing removal of two references to pollution control projects, a component of federally required New Source Review (NSR) Reform regulations that was vacated from the Federal NSR program.

III. What action is EPA taking?

EPA is approving the modification of OAC 3745–31–03 to incorporate PBRs for auto body refinishing facilities, gasoline dispensing facilities with Stage I controls, gasoline dispensing facilities with Stage I and Stage II controls, boilers and heaters, small printing

facilities, and mid-size printing facilities. EPA is approving the modification of OAC 3745–31–03 to incorporate permanent exemptions for organic liquid storage tanks of less than 19,815-gallon capacity, between 19,815 and 39,894-gallon capacity, and tanks of 39,894-gallon or greater capacity. EPA is approving the rescission of OAC 3745–35 and the modification of OAC 3745–15–03, 3745–31–01, 3745–31–02, 3745–31–04, 3745–31–05, 3745–31–06, 3745–31–07, 3745–31–08, 3745–31–09, 3745–31–10, 3745–31–20, and 3745–31–22 to accommodate Ohio's PTIO program, reorganize other provisions, and remove vacated NSR Reform provisions. EPA is approving OAC 3745–31–29, the program for General PTIs and General PTIOs, as an addition to the SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective November 30, 2012 without further notice unless we receive relevant adverse written comments by October 31, 2012. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective November 30, 2012.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 20, 2012.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Section 52.1870 is amended by revising paragraphs (c)(42), (c)(51), (c)(98)(i), and (c)(119)(i)(A), and by adding paragraph (c)(156) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(42) On February 25, 1980, the State of Ohio submitted the revised Ohio Administrative Code (OAC) Rules 3745–35–01 through 3745–35–04 which set forth requirements for air permits to operate and variances. These rules were adopted on September 28, 1979 and became effective in Ohio on November

7, 1979. Rescinded in 2008; see paragraph (c)(156) of this section.

* * * * *

(51) On October 1, 1982, and February 28, 1983 the State of Ohio submitted revisions to Ohio Administrative Code (OAC) Rules 3745–35–03 which set forth requirements for obtaining variances. Rescinded in 2008; see paragraph (c)(156) of this section.

* * * * *

(98) * * *

(i) Incorporation by reference. Rule 3745–35–07, adopted November 3, 1994, effective November 18, 1994. Rescinded in 2008; see paragraph (c)(156) of this section.

* * * * *

(119) * * *

(i) * * *

(A) Ohio Administrative Code 3745–35–02, adopted April 4, 1994, effective April 20, 1994. Rescinded in 2008; see paragraph (c)(156) of this section.

* * * * *

(156) On April 24, 2006, Ohio EPA submitted two permanent exemptions from the Permit to Install program and six Permit-by-Rule provisions for approval into its SIP. On July 18, 2008, Ohio EPA submitted provisions for a Permit to Install and Operate (PTIO) program and a general permit program for approval into its SIP. The changes to Ohio's SIP involve the modification of various parts of OAC 3745–31, the removal of OAC 3745–35, and the addition of OAC 3745–31–29 to enable the issuance of federally enforceable general PTIs and general PTIOs. On June 30, 2008, the state regulations to implement the PTIO program became effective and OAC 3745–35 was rescinded.

(i) Incorporation by reference.

(A) Paragraph (A) of Ohio Administrative Code Rule 3745–15–03, ''Submission of emission information.'', effective June 30, 2008.

(B) Ohio Administrative Code Rule 3745–31–01, ''Definitions.'', effective December 14, 2007, except for paragraphs (I), (LLL)(2)(a)(xxi), (LLL)(4)(t), and (QQQ)(1)(b).

(C) Ohio Administrative Code Rule 3745–31–02, ''Applicability, requirements, and obligations.'', effective June 30, 2008.

(D) Ohio Administrative Code Rule 3745–31–03, ''Exemptions.'', effective June 30, 2008.

(E) Ohio Administrative Code Rule 3745–31–04, ''Applications.'', effective June 30, 2008.

(F) Ohio Administrative Code Rule 3745–31–05, ''Criteria for decision by the director.'', effective June 30, 2008, except for paragraph (A)(3)(a)(ii).

(G) Ohio Administrative Code Rule 3745–31–06, ''Completeness determinations, processing requirements, public participation, public notice, and issuance.'', effective June 30, 2008.

(H) Ohio Administrative Code Rule 3745–31–07, ''Termination, revocation, expiration, renewal, revision and transfer.'', effective June 30, 2008.

(I) Ohio Administrative Code Rule 3745–31–08, ''Registration status permit-to-operate.'', effective June 30, 2008.

(J) Ohio Administrative Code Rule 3745–31–09, ''Variances on operation.'', effective June 30, 2008.

(K) Ohio Administrative Code Rule 3745–31–10, ''NSR projects at existing emissions units at a major stationary source.'', effective June 30, 2008.

(L) Ohio Administrative Code Rule 3745–31–20, ''Attainment provisions—innovative control technology.'', effective June 30, 2008.

(M) Ohio Administrative Code Rule 3745–31–22, ''Nonattainment provisions—conditions for approval.'', effective June 30, 2008.

(N) Ohio Administrative Code Rule 3745–31–29, ''General permit-to-install and general PTIO.'', effective June 30, 2008.

(O) Ohio Administrative Code Rule 3745–31–32, ''Plantwide applicability limit (PAL).'', effective June 30, 2008.

(P) Ohio Administrative Code Rule 3745–31–33, ''Site preparation activities prior to obtaining a final permit-to-install or PTIO.'', effective June 30, 2008.

(Q) June 2, 2008, ''Director's Final Findings and Orders'', signed by Chris Korleski, Director, Ohio EPA.

[FR Doc. 2012–23987 Filed 9–28–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0343; FRL–9734–5]

Approval and Promulgation of Implementation Plans; Alabama 110(a)(1) and (2) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the State Implementation Plan (SIP) submission, submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), as demonstrating that the State meets certain state implementation plan (SIP) requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 annual and 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. Alabama certified that the Alabama SIP contains provisions that ensure the 1997 annual and 2006 24-hour PM_2 NAAQS are implemented, enforced, and maintained in Alabama (hereafter referred to as ''infrastructure submission''). Alabama's infrastructure submissions, provided to EPA on July 25, 2008, and September 23, 2009, addressed all the required infrastructure elements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS with the exception of sections 110(a)(2)(D)(i) and (E)(ii), which will be addressed in separate actions.

DATES: This rule is effective October 31, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0343. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street

SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background
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I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. On July 18, 1997 (62 FR 38652), EPA promulgated a new annual $PM_{2.5}$ NAAQS and on October 17, 2006 (71 FR 61144), EPA promulgated a new 24-hour NAAQS. On June 11, 2012, EPA proposed to approve Alabama's July 25, 2008, and September 23, 2009, infrastructure submissions for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. *See* 77 FR 34288. A summary of the background for today's final action is provided below. See EPA's June 11, 2012, proposed rulemaking at 77 FR 34288 for more detail.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. The data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous PM NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As already mentioned, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this final rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards.'' and September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards.''

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

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's final rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment plan requirements of section 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's final rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

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

II. This Action

EPA is taking final action to approve Alabama's infrastructure submissions as demonstrating that the State meets certain applicable requirements of sections 110(a)(1) and (2) of the CAA for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA notes that sections 110(a)(2)(D)(i) and (E)(ii) are not addressed by today's action. Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. ADEM certified that the Alabama SIP contains provisions that ensure the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS are implemented, enforced, and maintained in Alabama.

EPA received no adverse comments on its June 11, 2012, proposed approval of Alabama's July 25, 2008, and September 23, 2009, infrastructure submissions. Additionally, on September 10, 2012, EPA signed a final rulemaking action approving revisions to Alabama's New Source Review (NSR) requirements. EPA is not taking action today on Alabama's NSR program, as these requirements are already approved in Alabama's SIP.

Alabama's infrastructure submissions, provided to EPA on July 25, 2008, and September 23, 2009, address all the required infrastructure elements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS with the exception of sections 110(a)(2)(D)(i) and (E)(ii) which will be addressed in a separate action. EPA has determined that Alabama's July 25, 2008, and September 23, 2009, submissions are consistent with the requirements of CAA section 110 being acted upon today.

III. Final Action

As already described, ADEM has addressed certain elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS are implemented, enforced, and maintained in Alabama. EPA is taking final action to approve Alabama's July 25, 2008, and September 23, 2009, submissions for 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS (with the exception of sections 110(a)(2)(D)(i) and (E)(ii)) because these submissions are consistent with section 110 of the CAA. Today's action is not approving any specific rule, but rather making a determination that Alabama's already approved SIP meets certain CAA requirements.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50(e) is amended by adding two new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 1997 Fine Particulate Matter National Ambient Air Quality Standards'' and ''110(a)(1) and (2) Infrastructure Requirements for the 2006 Fine Particulate Matter National Ambient Air Quality Standards'' at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for 1997 Fine Particulate Matter National Ambient Air Quality Standards.	Alabama	7/25/2008	10/1/12 [Insert citation of publication].	With the exception of sections 110(a)(2)(D)(i) and 110(a)(2)(E)(ii).
110(a)(1) and (2) Infrastructure Requirements for 2006 Fine Particulate Matter National Ambient Air Quality Standards.	Alabama	9/23/2009	10/1/12 [Insert citation of publication].	With the exception of sections 110(a)(2)(D)(i) and 110(a)(2)(E)(ii).

[FR Doc. 2012–23989 Filed 9–28–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R10–RCRA–2011–0973; FRL–9707–1]

Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, (RCRA), allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs if the EPA finds that such programs are equivalent to and consistent with the Federal RCRA program and if such programs provide adequate enforcement of compliance. The regulations are used by the EPA to codify its decision to authorize individual State programs and incorporate by reference those provisions of the State statutes and regulations that are subject to the EPA's RCRA inspection and enforcement authorities as authorized provisions of the State's program. This direct final rule revises the codification of the authorized Idaho hazardous waste management program and incorporates by reference authorized provisions of the State's rules and regulations.

DATES: This rule is effective November 30, 2012, unless the EPA receives adverse comment on this regulation by the close of business October 31, 2012. If the EPA receives such comments, the EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to codify Idaho's authorized hazardous waste management program. The Director of the Federal Register approves this incorporation by reference as of November 30, 2012 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–RCRA–2011–0973 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: kocourek.nina@epa.gov.*
- *Mail:* Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT–122, Seattle, WA 98101.
- *Hand Delivery:* Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT–122, Seattle, WA 98101. Such deliveries are only accepted during the normal business hours of operation; special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–RCRA–2011–0973.

The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Region 10 Library, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. The EPA Region 10 Library is open from 9:00 a.m. to noon, and 1:00 to 4:00 p.m. Monday through Friday, excluding legal holidays. The EPA Region 10 Library telephone number is (206) 553–1289.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT–122, Seattle, WA 98101, email: *kocourek.nina@epa.gov*, phone number (206) 553–6502.

SUPPLEMENTARY INFORMATION:

I. Incorporation by Reference

A. What is codification?

Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, 42 U.S.C. 6926(b), allows the Environmental Protection Agency to authorize State hazardous waste management programs. The State regulations authorized by the EPA supplant the federal regulations concerning the same matter with the result that after authorization the EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is Federally enforceable. The EPA retains independent enforcement authority pursuant to sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973 and any other applicable statutory and regulatory provisions.

This action codifies the EPA's authorization of revisions to Idaho's hazardous waste management program. This direct final action codifies the State program in effect at the time the EPA authorized revisions to the Idaho hazardous waste management program in a final rule effective July 11, 2012 (77 FR 34229, June 11, 2012). Notice and an opportunity for comment regarding those revisions to the authorized State program were provided to the public at the time those revisions were proposed. The EPA is not reopening its decision to authorize changes to the State's program nor is the EPA requesting comment on those revisions.

B. What is the history of the authorization and codification of Idaho's hazardous waste management program?

Idaho initially received final authorization for its hazardous waste management program effective April 9, 1990 (55 FR 11015, March 26, 1990). Subsequently, the EPA authorized revisions to the State's program effective June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), June 11, 1995 (60 FR 18549, April 12, 1995), January 19, 1999 (63 FR 56086, October 21, 1998), July 1, 2002 (67 FR 44069, July 1, 2002), March 10, 2004 (69 FR 11322, March 10, 2004), July 22, 2005 (70 FR 42273, July 22, 2005), February 26, 2007 (72 FR 8283, February 26, 2007), December 23, 2008 (73 FR 78647, December 23, 2008), and July 11, 2012 (77 FR 34229, June 11, 2012). The EPA first codified Idaho's authorized hazardous waste management program effective February 4, 1991 (55 FR 50327, December 6, 1990), and updated the codification of Idaho's program effective June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), August 24, 1999 (64 FR 34133, June 25, 1999), March 8, 2005 (70 FR 11132, March 8, 2005), April 20, 2006 (71 FR 20341, April 20, 2006), April 6, 2010 (75 FR 17309, April 6, 2010). In this action, the EPA is revising subpart N of 40 CFR part 272, to include the most recent authorization revision effective July 11, 2012 (77 FR 34229, June 11, 2012).

C. What codification decisions have we made in this rule?

This action incorporates by reference the authorized revisions to the Idaho hazardous waste management program by revising subpart N of 40 CFR part 272. Previously, 40 CFR 272.651, incorporated by reference Idaho's authorized hazardous waste management program, as amended, through 2008. Section 272.651 also referenced the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provided the legal basis for the State's implementation of the hazardous waste management program. In addition, Section 272.651 referenced the Memorandum of Agreement, the Attorney General's Statement and the Program Description which were evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA. This action updates those demonstrations of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program, as well as the Memorandum of Agreement, the Attorney General's Statement and the Program Description, all of which were evaluated as part of the approval process for the program revision effective on July 11, 2012 (77 FR 34229, June 11, 2012).

D. What is the effect of idaho's codification on enforcement?

The EPA retains its independent enforcement authority under statutory provisions, including but not limited to, sections 3007, 3008, 3013 and 7003 of RCRA, and any other applicable statutory and regulatory provisions, to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogues to these provisions. Therefore, the EPA is not incorporating by reference Idaho's inspection and enforcement authorities nor are those authorities part of Idaho's approved State program which operates in lieu of the Federal program. The EPA lists Idaho's authorities for informational purposes, and because the EPA considered them in determining the adequacy of Idaho's enforcement authorities. This action revises this listing for informational purposes where these authorities have changed under Idaho's revisions to State law and were considered by the EPA in determining the adequacy of Idaho's enforcement authorities. Idaho's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State provisions are not part of the codification?

The public is reminded that some provisions of Idaho's hazardous waste management program are not part of the federally authorized State program.

These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Idaho is not authorized, which have been incorporated into the State regulations because of the way the State adopted federal regulations by reference; and

(3) State procedural and enforcement authorities which are necessary to establish the ability of the program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are ''broader in scope'' than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.651(c)(3) lists the Idaho regulatory provisions which are ''broader in scope'' than the federal program and which are not part of the authorized program being incorporated by reference. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law.

F. What will be the effect of the proposed codification on Federal HSWA requirements?

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which the EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, the EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

This codification does not affect Federal HSWA requirements for which the State is not authorized. The EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal Rules program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA enforces the HSWA requirements and not the State analogs.

II. Statutory and Executive Order Reviews

This direct final action codifies revisions to the EPA-authorized hazardous waste management program in Idaho pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law. This action complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866 and 13563

This action will codify revisions to the federally approved hazardous waste management program in Idaho. This type of action is exempt from review under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and EO 13563 (76 FR 3821, January 21, 2011).

2. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). This direct final rule does not establish or modify any information or recordkeeping requirements for the regulated community.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this direct final rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (2) a small 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. The EPA has determined that this direct final action will not have a significant impact on small entities because the action will only have the effect of codifying authorized pre-existing State law requirements. After considering the economic impacts of this action, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. 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. This action imposes no new 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 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities.

5. 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 codification of the authorized State hazardous waste management program in Idaho. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR. Thus, Executive Order 13132 does not apply to this action.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action addresses the codification of the authorized State hazardous waste management program in Idaho. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR. Thus, the EPA has determined that Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order (EO) 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it codifies an approved state program into the CFR. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

9. 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) 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 bodies. The NTTAA directs the EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The EPA has determined that this action does not involve ''technical standards'' as defined by the NTTAA. Therefore, the EPA did not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 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 action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action addresses codifying a revision of the authorized hazardous waste management program in the State of Idaho. The EPA has determined that the action is not subject to Executive Order 12898.

11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective November 30, 2012.

List of Subjects in 40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste and Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 24, 2012.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Section 272.651 is revised to read as follows:

§ 272.651 Idaho State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Idaho has final authorization for the following elements as submitted to the EPA in Idaho's base program application for final authorization which was approved by the EPA effective on April 9, 1990. Subsequent program revision applications were approved by the EPA effective on June 5, 1992, August 10, 1992, June 11, 1995, January 19, 1999, July 1, 2002, March 10, 2004, July 22, 2005, February 26, 2007, December 23, 2008, and July 11, 2012.

(b) The State of Idaho has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The Idaho statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) The binder entitled ''EPA-Approved Idaho Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated July 2012.

(ii) [Reserved]

(2) The EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39–4401; 39–4402; 39–4404; 39–4405 with exception of 39–4405(9); 39–4406; 39–4407; 39–4408(4); 39–4409(2) except first sentence; 39–4409(3); 39–4409(4) only first sentence; 39–4410; 39–4411(1); 39–4411(3); 39–4411(6); 39–4412; 39–4413; 39–4414; 39–4415; 39–4416; 39–4417; 39–4418; 39–4419; 39–4420; 39–4421; 39–4422; 39–4423(3); and 39–4426.

(ii) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Facility Siting Act'', published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39–5801; 39–5802; 39–5804; 39–5805; 39–5806; 39–5807; 39–5809; 39–5810; 39–5811; 39–5812; 39–5813(2); 39–5814; 39–5816; 39–5817; and 39–5818(1).

(iii) Idaho Code containing the General Laws of Idaho Annotated, Volume 2, Title 9, Chapter 3, ''Public Writings'', published in 2010 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 9–337 *et seq.;* 9–338; 9–339; 9–340A; 9–340B; 9–340C; 9–340D; 9–340E; 9–340F; 9–340G; 9–340H; 9–341; 9–342A; 9–343; and 9–344.

(iv) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', published in April 2011: sections 58.01.05.000; 58.01.05.356.02; 58.01.05.356.03; 58.01.05.356.04; 58.01.05.356.05; 58.01.05.800; 58.01.05.850; 58.01.05.996; 58.01.05.997; and 58.01.05.999.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference, and are not federally enforceable:

(i) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39–4403(6); 39–4403(14); 39–4403(17) only the second and third sentences; 39–4405(9); 39–4409(1) only the fourth and fifth sentences; 39–4409(7); 39–4423(2); 39–4427B; 39–4427C; 39–4427D; 39–4428; 39–4429; 39–4430; 39–4431; and 39–4432.

(ii) 2010 Cumulative Pocket Supplement to the Idaho Code (I.C.), containing, Title 39, Chapters 44 ''Hazardous Waste Management'', published in 2010 by the Michie Company, Law Publishers, Charlottesville, Virginia: section 39–4427.

(iii) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Siting Act'', published in 2002 by the Michie Company, Law Publishers Charlottesville, Virginia: section 39–5813(3).

(iv) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', published in April 2011: sections 58.01.05.011 only the fourth sentence; 58.01.05.355; 58.01.05.500; and 58.01.05.900.

(4) *Memorandum of Agreement.* The Memorandum of Agreement between the EPA Region 10 and the State of Idaho (IDEQ), signed by the EPA Regional Administrator on August 1, 2001, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq.*

(5) *Statement of Legal Authority.* The ''Attorney General's Statement for Final Authorization,'' signed by the Attorney

General of Idaho on July 5, 1988, and revisions, supplements and addenda to that Statement, dated July 3, 1989, February 13, 1992, December 29, 1994, September 16, 1996, October 3, 1997, April 6, 2001, September 11, 2002, September 22, 2004, June 13, 2006, September 29, 2006, June 23, 2008, and October 14, 2011, including clarification letter dated July 12, 2012, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq.*

(6) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''Idaho'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Idaho

(a) The statutory provisions include:

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', published in 2002 by the Michie Company, Law Publishers: sections 39–4403 except for 39–4403(6), 39–4403(14), and the second and third sentences of 39–4403(17); 39–4408(1); 39–4408(2); 39–4408(3); 39–4409(1) except the fourth and fifth sentences; 39–4409(2) only first sentence; 39–4409(4) except the first sentence; 39–4409(5); 39–4409(6); 39–4409(8); 39–4411(2); 39–4411(4); 39–4411(5); 39–4423(1); and 39–4424.

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Facility Siting Act'', published in 2002 by the Michie Company, Law Publishers: sections 39–5803; 39–5808; 39–5813(1); and 39–5818(2).

Copies of the Idaho statutes that are incorporated by reference are available from Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, VA 22906–7587.

(b) The regulatory provisions include:

Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', published in April 2011: sections 58.01.05.001; 58.01.05.002; 58.01.05.003; 58.01.05.004; 58.01.05.005; 58.01.05.006; 58.01.05.007; 58.01.05.008; 58.01.05.009; 58.01.05.010; 58.01.05.011 with the exception of the fourth sentence; 58.01.05.012; 58.01.05.013; 58.01.05.015; 58.01.05.016; 58.01.05.017; 58.01.05.018; 58.01.05.356.01; and 58.01.05.998.

* * * * *

[FR Doc. 2012–23972 Filed 9–28–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8247]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

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

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

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

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

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

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

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
Florida:				
Davenport, City of, Polk County	120410	March 1, 1976, Emerg; December 2, 1980, Reg; September 28, 2012, Susp.	September 28, 2012.	September 28, 2012.
Dundee, Town of, Polk County	120409	February 19, 1976, Emerg; November 19, 1980, Reg; September 28, 2012, Susp.	*.....do	Do
Frostproof, City of, Polk County	120265	May 2, 1975, Emerg; May 1, 1980, Reg; September 28, 2012, Susp.	.....do	Do.
Haines City, City of, Polk County	120266	May 28, 1975, Emerg; September 16, 1981, Reg; September 28, 2012, Susp.	.....do	Do.
Region V				
Indiana:				
Amboy, Town of, Miami County	180303	June 5, 1984, Emerg; August 19, 1986, Reg; September 28, 2012, Susp.	.....do	Do.
Converse, Town of, Miami County	180497	N/A, Emerg; February 13, 2009, Reg; September 28, 2012, Susp.	.....do	Do.
Denver, Town of, Miami County	180323	August 20, 1975, Emerg; March 16, 1988, Reg; September 28, 2012, Susp.	.....do	Do.
Miami County, Unincorporated Areas	180409	March 11, 1976, Emerg; August 19, 1986, Reg; September 28, 2012, Susp.	.....do	Do.
Peru, City of, Miami County	180168	June 13, 1975, Emerg; January 18, 1984, Reg; September 28, 2012, Susp.	.....do	Do.
Michigan:				
Alcona, Township of, Alcona County	260996	July 25, 1997, Emerg; N/A, Reg; September 28, 2012, Susp.	.....do	Do.
Greenbush, Township of, Alcona County.	260001	August 26, 1975, Emerg; September 30, 1988, Reg; September 28, 2012, Susp.	.....do	Do.
Haynes, Township of, Alcona County	260274	April 12, 1974, Emerg; May 1, 1992, Reg; September 28, 2012, Susp.	.....do	Do.
Wisconsin:				
Alma Center, Village of, Jackson County.	550185	July 10, 1975, Emerg; January 3, 1985, Reg; September 28, 2012, Susp.	.....do	Do.
Black River Falls, City of, Jackson County.	550186	April 7, 1975, Emerg; February 4, 1981, Reg; September 28, 2012, Susp.	.....do	Do.
Hixton, Village of, Jackson County	550187	January 29, 1975, Emerg; January 2, 1987, Reg; September 28, 2012, Susp.	.....do	Do.
Jackson County, Unincorporated Areas	550583	September 30, 1975, Emerg; February 4, 1981, Reg; September 28, 2012, Susp.	.....do	Do.
Melrose, Village of, Jackson County	550188	June 30, 1975, Emerg; March 16, 1981, Reg; September 28, 2012, Susp.	.....do	Do.
Merrillan, Village of, Jackson County	550189	May 11, 1976, Emerg; September 1, 1986, Reg; September 28, 2012, Susp.	.....do	Do.
Taylor, Village of, Jackson County	550190	March 26, 1976, Emerg; June 1, 1987, Reg; September 28, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VII				
Iowa:				
Chickasaw County, Unincorporated Areas.	190855	July 6, 2007, Emerg; May 1, 2011, Reg; September 28, 2012, Susp.	.....do	Do.
Fredericksburg, City of, Chickasaw County.	190066	October 14, 1975, Emerg; September 29, 1986, Reg; September 28, 2012, Susp.	.....do	Do.
Lawler, City of, Chickasaw County	190067	July 25, 1975, Emerg; August 1, 1986, Reg; September 28, 2012, Susp.	.....do	Do.
Nashua, City of, Chickasaw County	190068	December 19, 1974, Emerg; September 29, 1978, Reg; September 28, 2012, Susp.	.....do	Do.

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

Dated: September 24, 2012.

David L. Miller,

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

[FR Doc. 2012–24027 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8249]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

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

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

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

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

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

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

Regulatory Flexibility Act. The Administrator has determined that this

rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Beale, Township of, Juniata County	421738	August 18, 1978, Emerg; September 10, 1984, Reg; October 2, 2012, Susp.	Oct. 2, 2012	Oct. 2, 2012.
Fermanagh, Township of, Juniata County.	420517	June 1, 1973, Emerg; February 1, 1978, Reg; October 2, 2012, Susp.	*.....do	Do.
Greenwood, Township of, Juniata County.	421741	July 7, 1975, Emerg; December 3, 1987, Reg; October 2, 2012, Susp.	.....do	Do.
Lack, Township of, Juniata County	421742	July 28, 1975, Emerg; December 3, 1987, Reg; October 2, 2012, Susp.	.....do	Do.
Mifflin, Borough of, Juniata County	420518	October 4, 1973, Emerg; February 1, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Mifflintown, Borough of, Juniata County	420519	June 24, 1975, Emerg; November 15, 1979, Reg; October 2, 2012, Susp.	.....do	Do.
Milford, Township of, Juniata County	421743	July 7, 1975, Emerg; September 2, 1981, Reg; October 2, 2012, Susp.	.....do	Do.
Monroe, Township of, Juniata County	421744	April 22, 1980, Emerg; November 4, 1987, Reg; October 2, 2012, Susp.	.....do	Do.
Port Royal, Borough of, Juniata County	420520	March 30, 1973, Emerg; January 5, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Spruce Hill, Township of, Juniata County.	421745	July 2, 1979, Emerg; October 15, 1985, Reg; October 2, 2012, Susp.	.....do	Do.
Susquehanna, Township of, Juniata County.	421746	June 27, 1975, Emerg; June 1, 1982, Reg; October 2, 2012, Susp.	.....do	Do.
Thompsontown, Borough of, Juniata County.	420521	July 7, 1975, Emerg; May 19, 1981, Reg; October 2, 2012, Susp.	.....do	Do.
Turbett, Township of, Juniata County	420522	May 10, 1973, Emerg; March 1, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Tuscarora, Township of, Juniata County	422452	July 30, 1975, Emerg; January 15, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Walker, Township of, Juniata County	420523	August 30, 1973, Emerg; August 1, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
West Virginia:				
Anmoore, Town of, Harrison County	540054	April 7, 1975, Emerg; September 3, 1980, Reg; October 2, 2012, Susp.	.....do	Do.
Clarksburg, City of, Harrison County	540056	September 18, 1973, Emerg; February 15, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Delbarton, Town of, Mingo County	540134	October 13, 1972, Emerg; March 15, 1977, Reg; October 2, 2012, Susp.	.....do	Do.
Gilbert, Town of, Mingo County	540135	July 7, 1972, Emerg; May 2, 1977, Reg; October 2, 2012, Susp.	.....do	Do.
Harrison County, Unincorporated Areas	540053	August 17, 1976, Emerg; July 4, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Kermit, Town of, Mingo County	540136	December 1, 1972, Emerg; March 1, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Lumberport, Town of, Harrison County	540058	April 1, 1975, Emerg; March 4, 1988, Reg; October 2, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Matewan, Town of, Mingo County	545538	February 3, 1970, Emerg; February 3, 1970, Reg; October 2, 2012, Susp.	.....do	Do.
Mingo County, Unincorporated Areas	540133	June 9, 1975, Emerg; December 2, 1980, Reg; October 2, 2012, Susp.	.....do	Do.
Nutter Fort, Town of, Harrison County	540059	March 10, 1975, Emerg; September 17, 1980, Reg; October 2, 2012, Susp.	.....do	Do.
Salem, City of, Harrison County	540242	February 18, 1975, Emerg; December 4, 1985, Reg; October 2, 2012, Susp.	.....do	Do.
West Milford, Town of, Harrison County	540062	September 25, 1975, Emerg; April 1, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Region IV				
Kentucky:				
Adairville, City of, Logan County	210353	March 27, 2006, Emerg; N/A, Reg; October 2, 2012, Susp.	.....do	Do.
Berea, City of, Madison County	210156	April 22, 1975, Emerg; September 30, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Lewisburg, City of, Logan County	210149	March 27, 1975, Emerg; June 17, 1977, Reg; October 2, 2012, Susp.	.....do	Do.
Madison County, Unincorporated Areas	210342	September 19, 1989, Emerg; September 28, 1990, Reg; October 2, 2012, Susp.	.....do	Do.
Richmond, City of, Madison County	210157	June 20, 1975, Emerg; September 18, 1985, Reg; October 2, 2012, Susp.	.....do	Do.
Russellville, City of, Logan County	210150	July 24, 1974, Emerg; June 1, 1984, Reg; October 2, 2012, Susp.	.....do	Do.
Region V				
Wisconsin:				
Birchwood, Village of, Washburn County.	550574	February 26, 1975, Emerg; September 30, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Minong, Village of, Washburn County	550468	November 24, 1975, Emerg; September 1, 1986, Reg; October 2, 2012, Susp.	.....do	Do.
Shell Lake, City of, Washburn County	550469	November 8, 1974, Emerg; September 16, 1988, Reg; October 2, 2012, Susp.	.....do	Do.
Spooner, City of, Washburn County	550470	November 21, 1973, Emerg; April 2, 1979, Reg; October 2, 2012, Susp.	.....do	Do.
Washburn County, Unincorporated Areas.	550606	N/A, Emerg; June 30, 1999, Reg; October 2, 2012, Susp.	.....do	Do.
Region VI				
Arkansas:				
Chicot County, Unincorporated Areas	050025	July 24, 1974, Emerg; September 28, 1979, Reg; October 2, 2012, Susp.	.....do	Do.
Dermott, City of, Chicot County	050026	December 31, 1974, Emerg; September 28, 1979, Reg; October 2, 2012, Susp.	.....do	Do.
Eudora, City of, Chicot County	050027	July 2, 1974, Emerg; March 4, 1980, Reg; October 2, 2012, Susp.	.....do	Do.
Lake Village, City of, Chicot County	050028	March 27, 1974, Emerg; August 8, 1978, Reg; October 2, 2012, Susp.	.....do	Do.
Region VII				
Missouri:.				
Carroll County, Unincorporated Areas	290057	June 15, 1983, Emerg; October 17, 1986, Reg; October 2, 2012, Susp.	.....do	Do.

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

Dated: September 17, 2012.

David L. Miller,

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

[FR Doc. 2012–23990 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2012–0003]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

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

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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

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

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

These modified BFEs are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

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

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

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Sumter (FEMA Docket No.: B–1260).	Unincorporated areas of Sumter County (11–04–4816P).	September 22, 2011; September 29, 2011; *The Sumter County Times.*	The Honorable Don Burgess, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	January 27, 2012	120296
New Mexico: Bernalillo (FEMA Docket No.: B–1234).	City of Albuquerque (11–06–0465P).	October 4, 2011; October 11, 2011; *The Albuquerque Journal.*	The Honorable Richard J. Berry, Mayor, City of Albuquerque, 1 Civic Place, Albuquerque, NM 87102.	September 27, 2011	350002
North Carolina: Orange (FEMA Docket No.: B–1260).	Town of Chapel Hill (10–04–6903P).	November 23, 2011; November 30, 2011; *The Chapel Hill Herald.*	The Honorable Mark Kleinschmidt, Mayor, Town of Chapel Hill, 405 Martin Luther King, Jr. Boulevard, Chapel Hill, NC 27514.	March 29, 2012	370180
Texas: Bexar (FEMA Docket No.: B–1260).	City of San Antonio (11–06–2247P).	November 28, 2011; December 5, 2011; *The San Antonio Express-News.*	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	December 21, 2011	480045

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

Dated: September 14, 2012.

Sandra K. Knight,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 1, 2, 6, 8, 10, 11, 12, 15, 16, 24, 25, 26, 27, 28, 30, 31, 32, 34, 35, 39, 42, 46, 50, 52, 53, 54, 56, 57, 58, 59, 61, 62, 63, 64, 67, 70, 71, 76, 77, 78, 90, 91, 92, 95, 96, 97, 98, 105, 107, 108, 109, 110, 111, 114, 117, 125, 126, 127, 128, 130, 131, 133, 134, 147, 148, 150, 151, 153, 154, 159, 160, 161, 162, 164, 167, 169, 170, 171, 172, 174, 175, 179, 180, 188, 189, 193, 194, 195, 197, 199, and 401

49 CFR Parts 450, 451, 452, and 453

[Docket No. USCG–2012–0832]

RIN 1625–AB87

Shipping and Transportation; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule makes non-substantive changes throughout Titles 46 and 49 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard shipping and transportation regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Titles 46 and 49 on October 1, 2012.

DATES: This final rule is effective October 1, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0832 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2012–0832 in the ''Keyword'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Paul Crissy, Coast Guard; telephone 202–372–1093, email *Paul.H.Crissy@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

CFR Code of Federal Regulations
NMC National Maritime Center
NPRM Notice of proposed rulemaking
U.S.C. United States Code

II. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(A) and (b)(B) the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, good cause exists for not publishing an NPRM for all revisions in the rule because the revisions are all non-substantive changes. This rule consists only of corrections and editorial, organizational, and conforming amendments. These changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective upon publication in the **Federal Register**.

III. Basis and Purpose

Each year, the printed editions of Titles 46 and 49 of the Code of Federal Regulations (CFR) are recodified on October 1. This rule, which becomes effective October 1, 2012, makes technical and editorial corrections throughout Titles 46 and 49. This rule does not create any substantive requirements.

This rule updates internal Coast Guard office symbols throughout Titles 46 and 49 of the CFR in order to conform to the office symbols that came into use with the Deputy Commandant for Operations 3.0 realignment effective May 6, 2012. This rule also updates various addresses for Coast Guard offices throughout Titles 46 and 49 of the CFR in order to conform to new mailing addresses and mailing address formats that came into use June 15, 2009.

Additional amendments to 46 CFR and 49 CFR are as follows:

This rule amends 46 CFR 1.01–10 and 1.01–15 to update the title of the National Maritime Center's (NMC's) satellite offices.

This rule amends 46 CFR 2.10–20 to add the option of using Pay.gov for online payment of fees related to vessel inspections.

This rule amends 46 CFR 10.107 and 10.217 to update the title of the NMC's satellite offices.

This rule amends 46 CFR 24.20–1 to correct the formatting. Currently, the first paragraph in 24.20–1 is designated as paragraph (a), which is incorrect because there is no paragraph (b).

This rule amends 46 CFR 25.01–1 to add a note stating that additional Coast Guard regulations applicable to Uninspected Passenger Vessels can be found in 33 CFR.

This rule amends 46 CFR 27.102 to correct a typographical error.

This rule amends 46 CFR 39.20–9 to correct a CFR reference.

This rule amends 46 CFR 46.10–60 to reflect the new Customs and Border Protection title Director, Field Operations, and to correct a formatting error: currently, the first paragraph is designated as paragraph (a), which is incorrect because there is no paragraph (b).

This rule amends 46 CFR 61.20–17, 61.20–21, and 61.40–10 to correct typographical errors.

This rule amends 46 CFR 67.3 to update the address and the title for the U.S. Customs office, and to update a reference to the Secretary of Transportation; the responsible party is now the Secretary of Homeland Security.

This rule amends 46 CFR 76.33–15 to correct a typographical error.

This rule amends 46 CFR 90.35–5 to correct a formatting error.

This rule amends 46 CFR 111.105–31 to correct a measurement whose decimal point is currently misplaced.

This rule amends 46 CFR 117.15 to remove the obsolete ''grandfather'' time

provisions associated with these regulations. It also redesignates 46 CFR 117.15 and amends 117.200 to reflect that redesignation.

This rule amends 46 CFR 147.5 to correct a typographical error, and correct the format of a phone number.

This rule amends 46 CFR 148.3 to update an email address.

This rule amends 46 CFR 148.140 to correct the format of a phone number.

This rule amends 46 CFR 150.115 to correct the format of a phone number and add a Web site address.

This rule amends 46 CFR part 150, Table II to Part 150, to add an email address.

This rule amends 46 CFR part 153, Table 1 to Part 153, to correct the format of a phone number.

This rule amends 46 CFR 153.1608 to update and reformat a phone number.

This rule amends 46 CFR 160.077–5 to correct a typographical error.

This rule amends 46 CFR 164.018–7 to correct an address that was mistyped; it appeared without spaces between the words.

This rule amends 46 CFR 167.20 to update an address that has changed.

This rule amends a table in 46 CFR 171.080 by correcting the footnote, which currently directs readers to the wrong CFR citation.

This rule amends 46 CFR 180.15 to remove the obsolete ''grandfather'' time provisions associated with these regulations. It also redesignates 46 CFR 180.15 and amends 180.200 to reflect that redesignation.

This rule amends 46 CFR 401.110 to clarify the definition of Secretary of Homeland Security, rendering it gender neutral.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the 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 rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Because this rule involves non-substantive changes and internal agency practices and procedures, it will not impose any additional costs on the public.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), rules exempt from the notice and comment requirements of the APA are not required to examine the impact of the rule on small entities. Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this rule and we do not expect it to have an impact on small entities because the provisions of this rule are technical and non-substantive. It will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult Paul Crissy, Coast Guard; telephone 202–372–1093, email *Paul.H.Crissy@uscg.mil.* 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. 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 an expenditure, we will discuss the effects of this rule elsewhere in this preamble.

G. 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.

H. 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.

I. 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.

J. 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866, as supplemented by Executive Order 13563, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a) and (b) of the Instruction. This rule involves regulations that are editorial, procedural, and involve internal agency functions. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Parts 2, 170 and 174

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 6

Navigation (water), Reporting and recordkeeping requirements, Vessels.

46 CFR Part 8

Administrative practice and procedure, Organizations and functions (Government agencies), Reporting and recordkeeping requirements, Vessels.

46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Parts 11 and 12

Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 24

Marine safety.

46 CFR Parts 25, 161, and 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 27

Fire Prevention, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Parts 31, 91, 126, and 133

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 34

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 39

Cargo vessels, Fire prevention, Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 42

Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 46

Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Parts 52, 53, 54, 56, 57, 58, 59, 61, 62, 63, 64, 67, and 110

Reporting and recordkeeping requirements, Vessels.

46 CFR Parts 70, 71, 114, and 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 76

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 77

Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 92

Cargo vessels, Fire prevention, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 95

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 96

Cargo vessels, Marine safety, Navigation (water).

46 CFR Parts 97 and 130

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Parts 98 and 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety, Petroleum, Seamen.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 111

Vessels.

46 CFR Parts 114, and 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 117

Marine safety, Passenger vessels.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Seamen.

46 CFR Part 127

Cargo vessels, Fire prevention, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 128

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 131

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 134

Cargo vessels, Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 147

Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Parts 148 and 172

Cargo vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 150

Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 159

Business and industry, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Parts 171, 179 and 180

Marine safety, Passenger vessels.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 193

Fire prevention, Marine safety, Oceanographic research vessels.

46 CFR Part 194

Explosives, Hazardous materials transportation, Marine safety, Oceanographic research vessels.

46 CFR Part 195

Marine safety, Navigation (water), Oceanographic research vessels.

46 CFR Part 197

Benzene, Diving, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

49 CFR Parts 450 and 452

Freight, Packaging and containers, Reporting and recordkeeping requirements, Safety.

49 CFR Part 451

Freight, Packaging and containers, Safety.

49 CFR Part 453

Administrative practice and procedure, Freight, Packaging and containers, Safety.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 1, 2, 6, 8, 10, 11, 12, 15, 16,

24, 25, 26, 27, 28, 30, 31, 32, 34, 35, 39, 42, 46, 50, 52, 53, 54, 56, 57, 58, 59, 61, 62, 63, 64, 67, 70, 71, 76, 77, 78, 90, 91, 92, 95, 96, 97, 98, 105, 107, 108, 109, 110, 111, 114, 117, 125, 126, 127, 128, 130, 131, 133, 134, 147, 148, 150, 151, 153, 154, 159, 160, 161, 162, 164, 167, 169, 170, 171, 172, 174, 175, 179, 180, 188, 189, 193, 194, 195, 197, 199, and 401, and 49 CFR parts 450, 451, 452, and 453, as follows:

Title 46

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

PART 1—[AMENDED]

■ 2. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
1.01–10(b)(1) introductory text	(CG–553)	(CG–NAV).
1.01–10(b)(1) introductory text	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1) introductory text	Commercial Regulations and Standards Directorate (CG–52).	Director of Commercial Regulations and Standards (CG–5PS).
1.01–10(b)(1) introductory text	(CG–521)	(CG–ENG).
1.01–10(b)(1) introductory text	(CG–522)	(CG–OES).
1.01–10(b)(1) introductory text	(CG–523)	(CG–REG).
1.01–10(b)(1) introductory text	Response Policy Directorate (CG–53)	Assistant Commandant for Response Policy (CG–5R).
1.01–10(b)(1) introductory text	Office of Law Enforcement (CG–531)	Office of Law Enforcement Policy (CG–MLE).
1.01–10(b)(1) introductory text	(CG–532)	(CG–DOD).
1.01–10(b)(1) introductory text	Office of Incident Management and Preparedness (CG–533).	Office of Environmental Response Policy (CG–MER).
1.01–10(b)(1) introductory text	(CG–534)	(CG–SAR).
1.01–10(b)(1) introductory text	Office of Contingency Exercises (CG–535)	Office of Crisis and Contingency Planning and Exercise Policy (CG–CPE).
1.01–10(b)(1) introductory text	Prevention Policy Directorate (CG–54)	Assistant Commandant for Prevention Policy (CG–5P).
1.01–10(b)(1) introductory text	Office of International and Domestic Port Security (CG–541).	Office of International and Domestic Port Assessment (CG–PSA).
1.01–10(b)(1)	(CG–542)	(CG–BSX).
1.01–10(b)(1)	Office of Vessel Activities (CG–543)	Office of Commercial Vessel Compliance (CG–CVC).
1.01–10(b)(1) introductory text	(CG–544)	(CG–FAC).
1.01–10(b)(1) introductory text	(CG–545)	(CG–INV).
1.01–10(b)(1) introductory text	Marine Transportation and Systems Management Directorate (CG–55)..	Director of Marine Transportation Systems (CG–5PW)
1.01–10(b)(1) introductory text	(CG–551)	(CG–BRG).
1.01–10(b)(1) introductory text	Office of Marine Transportation Systems (CG–552).	Office of Waterways and Ocean Policy (CG–WWM).
1.01–10(b)(1)(i) introductory text	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5)..	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(i) introductory text	(CG–52)	(CG–5PS).
1.01–10(b)(1)(i)(A)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(i)(A)	(CG–52)	(CG–5PS).
1.01–10(b)(1)(i)(A)	(CG–521)	(CG–ENG).
1.01–10(b)(1)(i)(B)	(CG–522)	(CG–OES).
1.01–10(b)(1)(i)(B)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(i)(B)	(CG–52)	(CG–5PS).
1.01–10(b)(1)(i)(C)	(CG–523)	(CG–REG).
1.01–10(b)(1)(i)(C)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(i)(C)	(CG–52)	(CG–5PS).
1.01–10(b)(1)(i)(D)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(i)(D)	(CG–52)	(CG–5PS).
1.01–10(b)(1)(ii) introductory text	Director of Prevention Policy (CG–54)	Assistant Commandant for Prevention Policy (CG–5P).
1.01–10(b)(1)(ii) introductory text	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(ii)(A)	Office of Vessel Activities (CG–543)	Office of Commercial Vessel Compliance (CG–CVC).
1.01–10(b)(1)(ii)(A)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(ii)(A)	Director of Prevention Policy (CG–54)	Assistant Commandant for Prevention Policy (CG–5P).

Section	Remove	Add
1.01–10(b)(1)(ii)(B)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(ii)(B)	Director of Response Policy (CG–53)	Assistant Commandant for Response Policy (CG–5R).
1.01–10(b)(1)(ii)(B)	Office of Incident Management and Preparedness (CG–533).	Office of Environmental Response Policy (CG–MER).
1.01–10(b)(1)(ii)(C)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(ii)(C)	Director of Prevention Policy (CG–54)	Assistant Commandant for Prevention Policy (CG–5P).
1.01–10(b)(1)(ii)(C)	(CG–545)	(CG–INV).
1.01–10(b)(1)(ii)(D)	Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5).	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.01–10(b)(1)(11)(D)	17 Regional Examination Centers	NMC detachments.
1.01–15(a)(1)	Boating Safety Division	Boating Safety Division (CG–BSX–2).
1.01–15(a)(2)	Boating Safety Division	Boating Safety Division (CG–BSX–2).
1.01–15(c)(2)	Regional Examination Center (REC)	NMC detachment.
1.01–15(e)	Regional Examination Centers	NMC detachments.
1.01–15(e)	Regional Examination Locations	NMC detachment locations.
1.03–15(h)(1)	(CG–543)	(CG–CVC).
1.03–15(h)(2)	(CG–52)	(CG–5PS).
1.03–15(h)(3)	(CG–54d)	(CG–5P).
1.03–15(h)(3)	2100 2nd St. SW	2100 2nd Street SW.
1.03–15(h)(4)	(CG–521)	(CG–ENG).
1.03–15(h)(5)	(CG–55)	(CG–5PW).
1.03–15(j)	Assistant Commandant for Marine Safety and Environmental Protection.	Deputy for Operations Policy and Capabilities (CG–DCO–D).
1.03–40	Director of Prevention Policy (CG–54)	Assistant Commandant for Prevention Policy (CG–5P).
1.03–45	Director of Prevention Policy, Commandant (CG–54).	Assistant Commandant for Prevention Policy (CG–5P).
1.03–50	(CG–5)	(CG–DCO–D).
1.03–50	Director, Great Lakes Pilotage	Great Lakes Pilotage Division (CG–WWM–2).

PART 2—VESSEL INSPECTIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Subpart 2.45 also issued under the Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

■ 4. Revise § 2.10–20(d) introductory text, (d)(1) introductory text, and (d)(1)(i) to read as follows:

§ 2.10–20 General requirements.

* * * * *

(d) Unless otherwise specified or if payment is made through *www.pay.gov,* fees required by this subpart must be submitted using one of the following methods:

(1) For COI and COC Inspections:

(i) For payment by credit card, online through *www.pay.gov,* or U.S. Coast Guard Finance Center (OGR), 1430A Kristina Way, Chesapeake, VA 23326.

* * * * *

■ 5. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
2.75–1(c)	Assistant Commandant for Marine Safety, Security and Stewardship.	Deputy for Operations Policy and Capabilities (CG–DCO–D).
2.75–1(d)	(CG–521)	(CG–ENG).
2.75–5(a)	Assistant Commandant for Marine Safety, Security and Environmental Protection.	Deputy for Operations Policy and Capabilities (CG–DCO–D).
2.75–10(b)	(CG–521)	(CG–ENG).
2.75–15(a)	(CG–521)	(CG–ENG).
2.75–25(c)(1)	Commandant (CG–52), United States Coast Guard, Washington, DC 20593.	Commandant (CG–5PS), U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126.
2.75–50(c)	(CG–52)	(CG–5PS).

PART 6— WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

■ 6. The authority citation for part 6 continues to read as follows:

Authority: Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (*see* 46 U.S.C. App. note prec. 1); Department of Homeland Security Delegation No. 0170.1.

§ 6.06 [Amended]

■ 7. Amend § 6.06(b) introductory text by removing the phrase ''(CG–543)'' and adding, in its place, the phrase ''(CG–CVC)''.

PART 8— VESSEL INSPECTION ALTERNATIVES

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

Authority: 33 U.S.C. 3803 and 3821; 46 U.S.C. 3103, 3306, 3316, 3703; Department of Homeland Security Delegation No. 0170.1 and Aug. 8, 2011 Delegation of Authority, Anti-Fouling Systems.

PART 8—[AMENDED]

■ 9. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
8.110(a)	(CG–521)	(CG–ENG).
8.130(a)(5)	(CG–543)	(CG–CVC).
8.130(a)(6)	(CG–543)	(CG–CVC).
8.130(a)(7)	(CG–543)	(CG–CVC).
8.130(a)(11)	(CG–521)	(CG–ENG).
8.130(a)(11)	(CG–543)	(CG–CVC).
8.130(a)(13)	(CG–543)	(CG–CVC).
8.130(a)(19)	(CG–5)	(CG–DCO–D).
8.130(a)(20)	(CG–52)	(CG–5PS).
8.130(a)(21)	(CG–5)	(CG–DCO–D).
8.240(a)	(CG–521)	(CG–ENG).
8.430	(CG–521)	(CG–ENG).
8.440(d)(3)	Office of Compliance, Commandant (CG–543)	Office of Commercial Vessel Compliance, Commandant (CG–CVC).

PART 10—MERCHANT MARINER CREDENTIAL

■ 10. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. chapter 71; 46 U.S.C. chapter 72; 46 U.S.C. chapter 75; 46 U.S.C. 7701, 8906 and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1.

§ 10.103 [Amended]

■ 11. Amend § 10.103(a) by removing the phrase ''Office of Operating and Environmental Standards (CG–5221)'' and adding, in its place, the phrase ''Marine Personnel Qualifications Division (CG–OES–1)''.

■ 12. Amend § 10.107(b) by removing the definition for ''Regional examination center or REC'' and adding, in alphabetical order, the new definition of ''National Maritime Center Detachments'' to read as follows:

§ 10.107 Definitions in subchapter B.

* * * * *

National Maritime Center Detachments means a Coast Guard office that supports the National Maritime Center in the issuance of merchant mariners' credentials and endorsements.

* * * * *

§ 10.217 [Amended]

■ 13–14. In § 10.217—

■ a. Amend paragraph (a) to remove the text ''Regional Examination Centers'', and add, in its place, the text ''NMC detachments''; and

■ b. Amend paragraph (a) to remove the text ''Regional Examination Center'', and add, in its place, the text ''NMC detachment''.

■ c. Amend paragraph (c)(1) to remove the text ''RECs'' and add, in its place, the text ''NMC detachments''.

PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

■ 15. The authority citation for part 11 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

§ 11.102 [Amended]

■ 16. Amend § 11.102(a) by removing the phrase ''Office of Operating and Environmental Standards (CG- 5221)'' and adding, in its place, the phrase ''Marine Personnel Qualifications Division (CG–OES–1)''.

§ 11.309 [Amended]

■ 17. Amend § 11.309(c)(2) by removing the phrase ''(CG–543)'' and adding, in its place, the phrase ''(CG–CVC)''.

PART 12—REQUIREMENTS FOR RATING ENDORSEMENTS

■ 18. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701, and 70105; Department of Homeland Security Delegation No. 0170.1.

§ 12.01–3 [Amended]

■ 19. Amend § 12.01–3(a) by removing the phrase ''Office of Operating and Environmental Standards (CG–5221)'' and adding, in its place, the phrase ''Marine Personnel Qualifications Division (CG–OES–1)''.

PART 15—MANNING REQUIREMENTS

■ 20. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; and Department of Homeland Security Delegation No. 0170.1.

§ 15.105 [Amended]

■ 21. Amend § 15.105(a) by removing the phrase ''(CG–522)'' and adding, in its place, the phrase ''(CG–OES)''.

PART 16—CHEMICAL TESTING

■ 22. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; Department of Homeland Security Delegation No. 0170.1.

PART 16—[AMENDED]

■ 23. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
16.107(a)	(CG–545)	(CG–INV).
16.107(b)	(CG–545)	(CG–INV).
16.205(b)	(CG–545)	(CG–INV).
16.500(b)(1)	(CG–545)	(CG–INV).

PART 24—GENERAL PROVISIONS

■ 24. The authority citation for part 24 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 4104, 4302; Pub. L. 103–206; 107 Stat.2439; E.O. 12234; 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 25. Revise § 24.20–1 to read as follows:

§ 24.20–1 Marine engineering details.

All marine engineering details relative to the design, construction, and testing of boilers and machinery on steam-propelled motorboats of over 40 feet in length will be found in subchapter F (Marine Engineering) of this chapter.

PART 25—REQUIREMENTS

■ 26. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1.

■ 27. Revise § 25.01–1 to read as follows:

§ 25.01–1 Applicable to all vessels.

The provisions of this part shall apply to all vessels except as specifically noted.

Note to § 25.01–1: 33 CFR parts 175, 177, 179, 181 and 183 contain additional regulations applicable to Uninspected Passenger Vessels.

PART 25—[AMENDED]

■ 28. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears and add, in its place, the text indicated in the right column:

Section	Remove	Add
25.01–3(a)	Office of Vessel Activities (CG–543)	Office of Commercial Vessel Compliance (CG–CVC).
25.30–15	(CG–5214)	(CG–ENG–4).
25.45–1(a) introductory text	(CG–521)	(CG–ENG).
25.45–2(a)	(CG–521)	(CG–ENG).

PART 26—OPERATIONS

■ 29. The authority citation for part 26 continues to read as follows:

Authority: 46 U.S.C. 3306, 4104, 6101, 8105; Pub. L. 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 26.03–8 [Amended]

■ 30. Amend § 26.03–8(a) by removing the phrase ''(CG–543)'' and adding, in its place, the phrase ''(CG–CVC)''.

PART 27—TOWING VESSELS

■ 31. The authority citation for part 27 continues to read as follows:

Authority: 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3901); Department of Homeland Security Delegation No. 0170.1.

§ 27.102 [Amended]

■ 32. Amend § 27.102(a) by removing the text ''(CG–521), 21002nd St.'' and adding, in its place, the text ''(CG–ENG), 2100 2nd Street''.

§ 27.211 [Amended]

■ 33. Amend § 27.211(c) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 34. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.1.

§ 28.40 [Amended]

■ 35. Amend § 28.40(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

§ 28.50 [Amended]

■ 36. Amend § 28.50 by removing the text ''(CG–5433)'' from the definition of ''Coast Guard Representative'' and adding, in its place, the text ''(CG–CVC–3)''.

PART 30—GENERAL PROVISIONS

■ 37. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; Department of Homeland Security Delegation No. 0170.1; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–05 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 30.01–3 [Amended]

■ 38. Amend § 30.01–3(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

§ 30.30–5 [Amended]

■ 39. Amend § 30.30–5(a) by removing the phrase ''(CG–543)'' and adding, in its place, the phrase ''(CG–CVC)''.

§ 30.30–7 [Amended]

■ 40. Amend § 30.30–7 by removing the text ''Coast Guard Headquarters, Room 1104, 2100 Second Street SW., Washington, DC 20593'', and adding, in its place, the text ''U.S. Coast Guard, Room 1104, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126''.

PART 31—INSPECTION AND CERTIFICATION

■ 41. The authority citation for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section 31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

PART 31—[AMENDED]

■ 42. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
31.01–3(b)	(CG–521)	(CG–ENG).
31.10–1(b)	(CG–52)	(CG–5PS).
31.10–16(e) introductory text	(CG–543)	(CG–CVC).
31.10–21(e)(1)	(CG–543)	(CG–CVC).
31.10–21(e)(3)	(CG–543)	(CG–CVC).
31.10–21(g)	(CG–543)	(CG–CVC).

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

■ 43. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

PART 32—[AMENDED]

■ 44. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
32.01–1(a)	(CG–521)	(CG–ENG).
32.53–3(a)	Assistant Commandant for Marine Safety and Environmental Protection.	Deputy for Operations Policy and Capabilities (CG–DCO–D).
32.53–3(b)	(CG–522)	(CG–OES).
32.53–3(d)	Assistant Commandant for Marine Safety and Environmental Protection.	Deputy for Operations Policy and Capabilities (CG–DCO–D).
32.53–3(e)	Assistant Commandant for Marine Safety and Environmental Protection.	Deputy for Operations Policy and Capabilities (CG–DCO–D).

PART 34—FIREFIGHTING EQUIPMENT

■ 45. The authority citation for part 34 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 34—[AMENDED]

■ 46. Amend § 34.01–15(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 35—OPERATIONS

■ 47. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 35.01–3 [Amended]

■ 48. Amend § 35.01–3(a) by removing the text ''(CG–522)'' and adding, in its place, the text ''(CG–OES)''.

PART 39—VAPOR CONTROL SYSTEMS

■ 49. The authority citation for Part 39 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 3306, 3703, 3715(b); 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 39—[AMENDED]

■ 50. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
39.10–1(b)	(CG–522)	(CG–OES).
39.10–5(a)	(CG–522)	(CG–OES).
39.10–9	(CG–522)	(CG–OES).
39.20–1(a)(1)	(CG–522)	(CG–OES).
39.20–9(b)(7)	§ 111.105–15(b)	§ 111.105–11(b).
39.20–9(d)	(CG–522)	(CG–OES).
39.40–1(b)	(CG–522)	(CG–OES).
39.40–1(c)	(CG–522)	(CG–OES).
39.40–1(e)	(CG–522)	(CG–OES).

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

■ 51. The authority citation for Part 42 continues to read as follows:

Authority: 46 U.S.C. 5101–5116; Department of Homeland Security Delegation No. 0170.1; section 42.01–5 also issued under the authority of 44 U.S.C. 3507.

PART 42—[AMENDED]

■ 52. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
42.07–60(a)	District Director of Customs	Director, Field Operations (DFO).
42.07–60(b)	District Director of Customs	Director, Field Operations (DFO).
42.07–60(c)	District Director of Customs	Director, Field Operations (DFO).

PART 46—SUBDIVISION LOAD LINES FOR PASSENGER VESSELS

■ 53. The authority citation for part 46 continues to read as follows:

Authority: 46 U.S.C. 3306; 46 U.S.C. 5101–5116; E.O. 12234, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 54. Revise § 46.10–60 to read as follows:

§ 46.10–60 Control.

The Director, Field Operations (DFO) or the Coast Guard District Commander may detain a passenger vessel for a survey if there is reason to believe that such a vessel is proceeding on her journey in excess of the draft allowed by the regulations in this part as indicated by the vessel's load lines certified on the safety certificate, load line certificate, or otherwise. The Coast Guard District Commander may detain a passenger vessel if it is so loaded as to be manifestly unsafe to proceed to sea. Except as otherwise required by this section, § 42.07–60 of this subchapter applies to all passenger vessels assigned load lines under the load line acts and the regulations of this subchapter.

PART 50—GENERAL PROVISIONS

■ 55. The authority citation for part 50 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 50.01–20 also issued under the authority of 44 U.S.C. 3507.

§ 50.25–1 [Amended]

■ 56. Amend § 50.25–1(e) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 52—POWER BOILERS

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

Authority: 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 52.01–1 [Amended]

■ 58. Amend § 52.01–1(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 53—HEATING BOILERS

■ 59. The authority citation for part 53 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 53.01–1 [Amended]

■ 60. Amend § 53.01–1(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 54—PRESSURE VESSELS

■ 61. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 54—[AMENDED]

■ 62. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
54.01–1(a)	(CG–521)	(CG–ENG).
54.05–30(b)	Coast Guard CG–521	U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126.
54.05–30(c)	Coast Guard CG–521	U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG).
54.15–25(c–1)	Commandant CG–521	U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG).

PART 56—PIPING SYSTEMS AND APPURTENANCES

■ 63. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 56.01–2 [Amended]

■ 64. Amend § 56.01–2(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

§ 56.50–105 [Amended]

■ 65. Amend § 56.50–105 by removing the text ''CG–521'' from Table 56.50–105 Note 3, and adding, in its place, the text ''(CG–ENG)''.

PART 57—WELDING AND BRAZING

■ 66. The authority citation for part 57 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 57.02–1 [Amended]

■ 67. Amend § 57.02–1(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

■ 68. The authority citation for part 58 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 58.03–1 [Amended]

■ 69. Amend § 58.03–1(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

§ 58.50–15 [Amended]

■ 70. Amend § 58.50–15(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 59—REPAIRS TO BOILERS, PRESSURE VESSELS AND APPURTENANCES

■ 71. The authority citation for part 59 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 227; Department of Homeland Security Delegation No. 0170.1.

§ 59.01–2 [Amended]

■ 72. Amend § 59.01–2(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 61—PERIODIC TESTS AND INSPECTIONS

■ 73. The authority citation for part 61 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 61—[Amended]

■ 74. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
61.03–1(a)	(CG–521)	(CG–ENG).
61.20–17(f)(2)	CG–543	(CG–CVC).
61.20–21	CG–543	(CG–CVC).
61.40–10(b)	CG–521	(CG–ENG).

PART 62—VITAL SYSTEM AUTOMATION

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

Authority: 46 U.S.C. 3306, 3703, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 62.05–1 [Amended]

■ 76. Amend § 62.05–1(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 63—AUTOMATIC AUXILIARY BOILERS

■ 77. The authority citation for part 63 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 63.05–1 [Amended]

■ 78. Amend § 63.05–1(a) by removing the text ''(CG–521), 2100 Second Street, SW'' and adding, in its place, the text ''(CG–ENG), 2100 2nd Street, SW''.

PART 64—MARINE PORTABLE TANKS AND CARGO HANDLING SYSTEMS

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

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1.

§ 64.2 [Amended]

■ 80. Amend § 64.2(a) by removing the text ''Marine Safety and Environmental Protection, 2100 Second Street SW., Washington, DC 20593–0001'' and adding, in its place, the text ''Deputy for Operations Policy and Capabilities (CG–DCO–D), U.S. Coast Guard, 2100 2nd Street, SW., Stop 7355, Washington, DC 20593–7355''.

PART 67—DOCUMENTATION OF VESSELS

■ 81. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; Department of Homeland Security Delegation No. 0170.1.

§ 67.3 [Amended]

■ 82. Amend § 67.3 as follows:

■ a. In the Note to the definition of ''Endorsement'' remove the text ''U.S. Customs Service, 1300 Pennsylvania Avenue NW., Ronald Reagan Building, Washington DC 20229 (Entry Procedures and Carriers Branch)'' and add, in its place, the text ''U.S. Customs and Border Protection, 799 9th Street NW., Washington DC 20001 (Cargo Security, Carriers and Immigration Branch)''; and

■ b. Remove the word ''Transportation'' from the definition for ''Secretary'' and add, in its place, the words ''Homeland Security''.

PART 70—GENERAL PROVISIONS

■ 83. The authority citation for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

§ 70.10–1 [Amended]

■ 84. Amend § 70.10–1 by removing the words ''United States Coast Guard, Washington, DC 20593'' from the definition of ''Headquarters'' and adding, in their place, the words ''U.S. Coast Guard, 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126''.

§ 70.35–5 [Amended]

■ 85. Amend § 70.35–5(a) by removing the text ''(CG–52)'' and adding, in its place, the text ''(CG–5PS)''.

PART 71—INSPECTION AND CERTIFICATION

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

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 71—[AMENDED]

■ 87. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
71.15–5(b)	(CG–521)	(CG–ENG).
71.50–3(g)	(CG–543)	(CG–CVC).

PART 76—FIRE PROTECTION EQUIPMENT

■ 88. The authority citation for part 76 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 89. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
76.01–2(a)	(CG–521)	(CG–ENG).
76.33–15(e)	moisture	moisture.

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

■ 90. The authority citation for part 77 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 77.01–3 [Amended]

■ 91. Amend § 77.01–3(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 78—OPERATIONS

■ 92. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 78.01–2 [Amended]

■ 93. Amend § 78.01–2(a) by removing the text ''(CG–5214)'' and adding, in its place, the text ''(CG–ENG–4)''.

PART 90—GENERAL PROVISIONS

■ 94. The authority citation for part 90 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 95. Revise § 90.35–5 to read as follows:

§ 90.35–5 Where obtainable.

The standards established by the American Bureau of Shipping are usually published annually and may be purchased from the American Bureau of Shipping, ABS Plaza, 16855 Northchase Drive, Houston, TX 77060. These standards may be also examined at the Office of the Commandant (CG–5PS), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126, or at the Office of any Coast Guard District Commander or Officer in Charge, Marine Inspection.

PART 91—INSPECTION AND CERTIFICATION

■ 96. The authority citation for part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 91—[AMENDED]

■ 97. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
91.15–5(b)	(CG–521)	(CG–ENG).
91.40–3(e)(1)	(CG–543)	(CG–CVC).
91.40–3(e)(3)	(CG–543)	(CG–CVC).
91.40–3(g)	(CG–543)	(CG–CVC).
91.55–15(a)(2)	(CG–521)	(CG–ENG).

PART 92—CONSTRUCTION AND ARRANGEMENT

■ 98. The authority citation for part 92 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 92.01–2 [Amended]

■ 99. Amend § 92.01–2(a) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 95—FIRE PROTECTION EQUIPMENT

■ 100. The authority citation for part 95 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 95.01–2 [Amended]

■ 101. Amend § 95.01–2(a) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

■ 102. The authority citation for part 96 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 96.01–3 [Amended]

■ 103. Amend § 96.01–3(a) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 97—OPERATIONS

■ 104. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 5111, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 97.01–2 [Amended]

■ 105. Amend § 97.01–2(a) by removing the text ''(CG–5214)'', and adding, in its place, the text ''(CG–ENG–4)''.

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

■ 106. The authority citation for part 98 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3306, 3307, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 98—[AMENDED]

■ 107. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
98.25–90(c)	(CG–522)	(CG–OES).
98.30–14(a)(2)	(CG–522)	(CG–OES).
98.30–14(a)(3)	(CG–522)	(CG–OES).
98.30–14(b)(1)	(CG–522)	(CG–OES).
98.30–14(b)(2)	(CG–522)	(CG–OES).
98.33–1(b)(1) (Note)	(G–MSO–3)	(CG–ENG–5).

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

■ 108. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 4502; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

§ 105.01–3 [Amended]

■ 109. Amend § 105.01–3(a) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 107—INSPECTION AND CERTIFICATION

■ 110. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3307; 46 U.S.C. 3316; Department of Homeland Security Delegation No. 0170.1; § 107.05 also issued under the authority of 44 U.S.C. 3507.

PART 107—[AMENDED]

■ 111. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
107.117(a)	(CG–543)	(CG–CVC).
107.117(a)	(G–MOC)	(CG–CVC).
107.117(b)	(CG–521)	(CG–ENG).
107.205(b)	(CG–521)	(CG–ENG).
107.265(a)(2)	(CG–543)	(CG–CVC).
107.267(a)(2)	(CG–543)	(CG–CVC).
107.267(b) introductory text	(G–MOC)	(CG–CVC).
107.413(b)	(CG–543)	(CG–CVC).
107.413(c)	(CG–543)	(CG–CVC).
107.413(d)	(CG–543)	(CG–CVC).

PART 108—DESIGN AND EQUIPMENT

■ 112. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; Department of Homeland Security Delegation No. 0170.1.

PART 108—[AMENDED]

■ 113. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
108.101(a)	(CG–521)	(CG–ENG).
108.105(a)	(CG–521)	(CG–ENG).
108.105(c) introductory text	(CG–521)	(CG–ENG).
108.201(a)	(CG–522)	(CG–OES).

PART 109—OPERATIONS

■ 114. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; Department of Homeland Security Delegation No. 0170.1.

PART 109—[AMENDED]

■ 115. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
Part 109 Appendix A 4.f.	(CG–543)	(CG–CVC).
109.105(a)	(CG–521)	(CG–ENG).

PART 110—GENERAL PROVISIONS

■ 116. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; § 110.01–2 also issued under 44 U.S.C. 3507.

§ 110.10–1 [Amended]

■ 117. Amend § 110.10–1(a) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 111—ELECTRIC SYSTEMS—GENERAL REQUIREMENTS

■ 118. The authority citation for part 111 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1.

§ 111.105–31 [Amended]

■ 119. Amend § 111.105–31(g) by removing the text ''.025'', and adding, in its place, the text ''0.25''.

§ 111.105–32 [Amended]

■ 120. Amend § 111.105–32(c) by removing the text ''(CG–521)'', and adding, in its place, the text ''(CG–ENG)''.

PART 114—GENERAL PROVISIONS

■ 121. The authority citation for part 114 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1; § 114.900 also issued under 44 U.S.C. 3507.

§ 114.600 [Amended]

■ 122. Amend § 114.600(a) by removing the text ''(CG–522)'', and adding, in its place, the text ''(CG–OES)''.

PART 117— LIFESAVING EQUIPMENT AND ARRANGEMENTS

■ 123. The authority citation for part 117 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 117.15 [Amended]

■ 124. Amend § 117.15 by removing paragraphs (a), (b), (d), (e), (f), (g), and (h), and redesignating paragraphs (c), (i) and (j) as paragraphs (a), (b) and (c) respectively.

§ 117.200 [Amended]

■ 125. In § 117.200, following Table 117.200(c), remove the text ''117.15(c)'' from the abbreviation ''LF'' and add, in its place, the text ''117.15(a)''.

PART 125—GENERAL

■ 126. The authority citation for part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1.

PART 125—[AMENDED]

■ 127. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
125.110(a)	(CG–522)	(CG–OES).
125.120(a)	(CG–522)	(CG–OES).
125.180(a)	(CG–522)	(CG–OES).

PART 126—INSPECTION AND CERTIFICATION

■ 128. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307, 3702, 14104; 46 U.S.C. Chapter 701; Executive Order 11735, 38 FR 21243; 3 CFR 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

PART 126—[AMENDED]

■ 129. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
126.140(a)	(CG–543)	(CG–CVC).
126.140(g)(3)	(CG–543)	(CG–CVC).
126.235(b)	(CG–5212).	(CG–ENG–2)

PART 127—CONSTRUCTION AND ARRANGEMENTS

■ 130. The authority citation for part 127 continues to read as follows:

Authority: 46 U.S.C. 3306; Department of Homeland Security Delegation No. 0170.1.

§ 127.210 [Amended]

■ 131. Amend § 127.210(b) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 128—MARINE ENGINEERING: EQUIPMENT AND SYSTEMS

■ 132. The authority citation for part 128 continues to read as follows:

Authority: 46 U.S.C. 3306; Department of Homeland Security Delegation No. 0170.1.

§ 128.310 [Amended]

■ 133. Amend § 128.310(b) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 130—VESSEL CONTROL, AND MISCELLANEOUS EQUIPMENT AND SYSTEMS

■ 134. The authority citation for part 130 continues to read as follows:

Authority: 46 U.S.C. 3306; Department of Homeland Security Delegation No. 0170.1.

§ 130.470 [Amended]

■ 135. Amend § 130.470(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 131—OPERATIONS

■ 136. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 131—[AMENDED]

■ 137. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
131.530(b)(1)	(CG–543)	(CG–CVC).
131.535(b)	(CG–543)	(CG–CVC).
131.580(e)	(CG–521)	(CG–ENG).

PART 133—LIFESAVING SYSTEMS

■ 138. The authority citation for part 133 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307; Department of Homeland Security Delegation No. 0170.1.

PART 133—[AMENDED]

■ 139. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
133.09	(CG–521)	(CG–ENG).
133.40(c) introductory text	(CG–521)	(CG–ENG).

PART 134—ADDED PROVISIONS FOR LIFTBOATS

■ 140. The authority citation for part 134 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307; Department of Homeland Security Delegation No. 0170.1.

PART 134—[AMENDED]

■ 141. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
134.140(a)(3)	(CG–521)	(CG–ENG).
134.140(b)	(CG–521)	(CG–ENG).

PART 147—HAZARDOUS SHIPS' STORES

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

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 147—[AMENDED]

■ 143. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and

add, in its place, the text indicated in the right column:

Section	Remove	Add
147.5 (Heading)	(CG–522)	(CG–OES).
147.5	(CG–522)	(CG–OES).
147.5	and the telphone number is (202) 372–1401	telephone 202–372–1401.
147.7(a)	(CG–522)	(CG–OES).
147.9(a)	(CG–522)	(CG–OES).
147.40 (Heading)	(CG–522)	(CG–OES).
147.40(a) introductory text	(CG–522)	(CG–OES).
147.40(b)	(CG–522)	(CG–OES).
147.40(c)	(CG–522)	(CG–OES).
147.50(d)	(CG–521)	(CG–ENG).
147.60(c)(2)	(CG–522)	(CG–OES).

PART 148—CARRIAGE OF BULK SOLID MATERIALS THAT REQUIRE SPECIAL HANDLING

144. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1602; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 46 U.S.C. 3306, 5111; 49 U.S.C. 5103; Department of Homeland Security Delegation No. 0170.1.

PART 148—[AMENDED]

145. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
148.3 "Commandant" definition	(CG–5223)	(CG–ENG–5).
148.3 "Commandant" definition	United States Coast Guard	U.S. Coast Guard.
148.3 "Commandant" definition	CG–5223 can be contacted at 202–372–1420 or *Hazmat@comdt.uscg.mil.*	CG–ENG–5 can be contacted at 202–372–1420 or email: *hazmatstandards@uscg.mil.*
148.5(a)	(CG–5223)	(CG–ENG–5).
148.8(a)	Hazardous Materials Standards Division (CG–5223).	Hazardous Materials Division (CG–ENG–5).
148.15(b)	(CG–5223)	(CG–ENG–5),
148.15(c)	(CG–5223)	(CG–ENG–5).
148.25(b)	(CG–5223)	(CG–ENG–5).
148.30	(CG–5223)	(CG–ENG–5).
148.55(b)(3)	(CG–5223)	(CG–ENG–5).
148.55(b)(4)	(CG–5223)	(CG–ENG–5).
148.115(b)	(CG–5223)	(CG–ENG–5).
148.115(c)	at (800) 424–8802 (toll free) or (202) 267–2675.	at 800–424–8802 (toll free) or 202–267–2675; or online at *www.nrc.uscg.mil.*
148.245(a)(1)	(CG–5223)	(CG–ENG–5).
148.250(a)(1)	(CG–5223)	(CG–ENG–5).
148.310(i)	(CG–5223)	(CG–ENG–5).

PART 150—COMPATIBILITY OF CARGOES

■ 146. The authority citation for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1. Section 150.105 issued under 44 U.S.C. 3507; Department of Homeland Security Delegation No. 0170.1.

PART 150—[AMENDED]

■ 147. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
150.140	(G–MSO) (tel. no. (202) 372–1425)	(CG–ENG–5) (Telephone 202–372–1420).
150.150 (introductory text)	(G–MSO)	(CG–ENG–5).
150.160(a)	(G–MSO)	(CG–ENG–5).
Table I to Part 150, Note 1	Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Telephone (202) 372–1425..	Commandant (CG–ENG–5), Hazardous Materials Division, U.S. Coast Guard, 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126. Telephone 202–372–1420; email: *hazmatstandards@uscg.mil.*

Section	Remove	Add
Table II to Part 150, Note 1	Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Telephone (202) 372–1425.	Commandant (CG–ENG–5), Hazardous Materials Division, U.S. Coast Guard, 2100 2nd Street, SW., Stop 7126, Washington, DC 20593–7126. Telephone 202–372–1420; email: *hazmatstandards@uscg.mil.*
Appendix III to Part 150; Step 3	Send a copy of the Data Sheet for each binary chemical mixture tested to: Commandant (G–MSO), U.S. Coast Guard, Washington, DC 20593–0001 (CG–5223).	Send a copy of the Data Sheet for each binary chemical mixture tested to: Commandant (G–ENG–5), U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126 (CG–ENG–5).

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

■ 148. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; Department of Homeland Security Delegation No. 0170.1.

PART 151—[AMENDED]

■ 149. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place the text indicated in the right column:

Section	*Remove*	*Add*
151.50–20(i)	(CG–522)	(CG–ENG).
151.50–22(d)	(CG–522)	(CG–ENG).
151.50–23(e)	(CG–522)	(CG–ENG).
151.50–36(b)	(CG–522)	(CG–ENG).
151.50–50(n)	(CG–522)	(CG–ENG).
151.50–75	(CG–522)	(CG–ENG).
151.50–76(b)	(CG–522)	(CG–ENG).
151.50–76(c)	(CG–522)	(CG–ENG).
151.50–76(g)	(CG–522)	(CG–ENG).
151.50–77(a)	(CG–522)	(CG–ENG).
151.50–80(c)	(CG–522)	(CG–ENG).
151.50–84(e)(2)	(CG–522)	(CG–ENG).

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

■ 150. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; Department of Homeland Security Delegation No. 0170.1. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903 (b).

PART 153—[AMENDED]

■ 151. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	*Remove*	*Add*
153.2 "Commandant" definition	2100 Second Street SW., Washington, DC 20593–0001.	2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126.
153.4(a)	Office of Operating and Environmental Standards (CG–522).	Office of Design and Engineering Standards (CG–ENG).
153.7(b)(4) introductory text	(CG–522)	(CG–ENG).
153.7(b)(4)(iii)	(CG–522)	(CG–ENG).
153.7(c)(3) introductory text	(CG–522)	(CG–ENG).
153.7(c)(4) introductory text	(CG–522)	(CG–ENG).
153.7(c)(5)	(CG–522)	(CG–ENG).
153.7(c)(6)	(CG–522)	(CG–ENG).
153.10(a)(1) introductory text	(CG–522)	(CG–ENG).
153.10(a)(3)	(CG–522)	(CG–ENG).
153.10(b) introductory text	(CG–522)	(CG–ENG).
153.15(b)(4)	(CG–522)	(CG–ENG).
153.16(a)	(CG–522)	(CG–ENG).
153.219(b)(3)	(CG–522)	(CG–ENG).
153.250	(CG–522)	(CG–ENG).
153.336(a)(3)	(CG–522)	(CG–ENG).
153.353(c)	(CG–522)	(CG–ENG).
153.365(a)(3)	(CG–522)	(CG–ENG).
153.407(b)	(CG–522)	(CG–ENG).
153.460(b)	(CG–522)	(CG–ENG).
153.460(c)	(CG–522)	(CG–ENG).
153.490(b)(1)	(CG–522)	(CG–ENG).
153.491(b)(3)	(CG–522)	(CG–ENG).
153.525(d)(3)	(CG–522)	(CG–ENG).
153.530(c) introductory text	(CG–522)	(CG–ENG).
153.530(c)(1)	(CG–522)	(CG–ENG).
153.530(c)(2)	(CG–522)	(CG–ENG).
153.530(o)(1)	(CG–522)	(CG–ENG).
153.556(a)	(CG–522)	(CG–ENG).
153.557(a)(3)	(CG–522)	(CG–ENG).
153.557(b)	(CG–522)	(CG–ENG).

Section	Remove	Add
153.558(b)	(CG–522)	(CG–ENG).
153.921	(CG–522)	(CG–ENG).
153.935a(a)(2)	(CG–522)	(CG–ENG).
153.1010(b)(4)	(CG–522)	(CG–ENG).
153.1011(a)(2)	(CG–522)	(CG–ENG).
153.1011(a)(3)	(CG–522)	(CG–ENG).
153.1025(c)	Commandant (CG–522). This authorization may be obtained by telephone ((202) 372–1425) if the person has previously obtained approval for the cargo tank entry procedure from the Commandant (CG–522).	Commandant (CG–ENG). This authorization may be obtained by calling telephone number 202–372–1420 or e-mail *hazmat standards@uscg.mil* if the person has previously obtained approval for the cargo tank entry procedure from the Commandant (CG–ENG).
153.1052	(CG–522)	(CG–ENG).
153.1101(c) introductory text	(CG–522)	(CG–ENG).
153.1119(c)(1)	(CG–522)	(CG–ENG).
153.1119(c)(2)(viii)	(CG–522)	(CG–ENG).
153.1119(c)(3)	(CG–522)	(CG–ENG).
153.1119(e)	(CG–522)	(CG–ENG).
153.1502(a)	(CG–522)	(CG–ENG).
Table 1 to Part 153, footnote h	(CG–522)	(CG–ENG) (telephone number 202–372–1420).
153.1608 Note	(CG–522) (tel # 202–372–1425)	(CG–ENG) (telephone number 202–372–1420).

PART 154—SAFETY STANDARDS FOR SELF–PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

■ 152. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; Department of Homeland Security Delegation No. 0170.1.

PART 154—[AMENDED]

■ 153. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
154.1(a)	(CG–522)	(CG–ENG).
154.12(c)(4)	(CG–522)	(CG–ENG).
154.12(d)(4)	(CG–522)	(CG–ENG).
154.32(a)	(CG–522)	(CG–ENG).
154.32(b)	(CG–522)	(CG–ENG).
154.34	(CG–522)	(CG–ENG).
154.170(b)(1)	(CG–522)	(CG–ENG).
154.170(b)(2)	(CG–522)	(CG–ENG).
154.172(c)	(CG–522)	(CG–ENG).
154.315(b)(2)	(CG–522)	(CG–ENG).
154.350(a)	(CG–522)	(CG–ENG).
154.356(c)	(CG–522)	(CG–ENG).
154.405(c)	(CG–522)	(CG–ENG).
154.406(c)	(CG–522)	(CG–ENG).
154.409(a)	(CG–522)	(CG–ENG).
154.410(a)	(CG–522)	(CG–ENG).
154.410(b)	(CG–522)	(CG–ENG).
154.411 introductory text.	(CG–522)	(CG–ENG).
154.418	(CG–522)	(CG–ENG).
154.419	(CG–522)	(CG–ENG).
154.425	(CG–522)	(CG–ENG).
154.426	(CG–522)	(CG–ENG).
154.428	(CG–522)	(CG–ENG).
154.430(b)	(CG–522)	(CG–ENG).
154.431(b)	(CG–522)	(CG–ENG).
154.435(a)	(CG–522)	(CG–ENG).
154.436	(CG–522)	(CG–ENG).
154.438(b)	(CG–522)	(CG–ENG).
154.440(a)(2)	(CG–522)	(CG–ENG).
154.440(b)	(CG–522)	(CG–ENG).
154.447(b)	(CG–522)	(CG–ENG).
154.448 introductory text.	(CG–522)	(CG–ENG).
154.449 introductory text.	(CG–522)	(CG–ENG).
154.453	(CG–522)	(CG–ENG).
154.459(b)	(CG–522)	(CG–ENG).
154.459(c)	(CG–522)	(CG–ENG).
154.467 introductory text.	(CG–522)	(CG–ENG).
154.503(e)	(CG–522)	(CG–ENG).
154.516 introductory text.	(CG–522)	(CG–ENG).
154.519(a)(2)	(CG–522)	(CG–ENG).
154.520 introductory text.	(CG–522)	(CG–ENG).
154.522(a)	(CG–522)	(CG–ENG).
154.524(e)	(CG–522)	(CG–ENG).
154.546(a)	(CG–522)	(CG–ENG).
154.610(c)	(CG–522)	(CG–ENG).
154.610(f)	(CG–522)	(CG–ENG).
154.620(b)	(CG–522)	(CG–ENG).
154.630(a)	(CG–522)	(CG–ENG).
154.630(c)	(CG–522)	(CG–ENG).
154.650(d)	(CG–522)	(CG–OES).
154.650(e)	(CG–522)	(CG–OES).
154.655(b)	(CG–522)	(CG–OES).
154.703(b)(3)	(CG–522)	(CG–OES).
154.703(d)(2)	(CG–522)	(CG–OES).
154.709(b)	(CG–522)	(CG–OES).
154.805(e)	(CG–522)	(CG–OES).
154.904(a)	(CG–522)	(CG–OES).
154.908(b)	(CG–522)	(CG–OES).
154.912	(CG–522)	(CG–OES).
154.1005(a)	(CG–522)	(CG–OES).
154.1005(b)	(CG–522)	(CG–OES).
154.1135(a)(3)	(CG–522)	(CG–OES).
154.1335(b)(1)	(CG–522)	(CG–OES).
154.1340(c)(1)	(CG–522)	(CG–OES).
154.1340(d)	(CG–522)	(CG–OES).
154.1345(b)(2)(i)	(CG–522)	(CG–OES).
154.1725(a)(2)	(CG–522)	(CG–OES).
154.1725(a)(4)	(CG–522)	(CG–OES).
154.1725(b)(1)	(CG–522)	(CG–OES).
154.1735(a) introductory text.	(CG–522)	(CG–OES).
154.1755	(CG–522)	(CG–OES).
154.1860	(CG–522)	(CG–OES).

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

■ 154. The authority citation for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; Section 159.001–9 also issued under the authority of 44 U.S.C. 3507.

PART 159—[Amended]

■ 155. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
159.001–2	Chief, Marine Safety and Environmental Protection (Commandant (CG–5)).	Deputy for Operations Policy and Capabilities (CG–DCO–D).

Section	Remove	Add
159.001–4(a)	Life Saving and Fire Safety Standards Division (CG–5214).	Life Saving and Fire Safety Division (CG–ENG–4).
159.001–5	(CG–5214)	(CG–ENG–4).

PART 160—LIFESAVING EQUIPMENT

■ 156. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; and Department of Homeland Security Delegation No. 0170.1.

PART 160—[Amended]

■ 157. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
160.002–1(c)	(CG–521)	(CG–ENG).
160.010–1(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street, SW.
160.010–2 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.010–5(b) introductory text	(CG–5214)	(CG–ENG–4).
160.010–5(c)(1)	(CG–5214)	(CG–ENG–4).
160.010–5(c)(2)	(CG–5214)	(CG–ENG–4).
160.010–5(c)(3)	(CG–5214)	(CG–ENG–4).
160.010–7(a)	(CG–5214)	(CG–ENG–4).
160.022–1(c)	(CG–521)	(CG–ENG–4).
160.037–1(c)	(CG–521)	(CG–ENG).
160.047–1(c)(1)	(CG–521)	(CG–ENG).
160.048–1(c)	2100 Second Street SW., Washington, DC 20593–0001.	2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126.
160.049–1(c)	2100 Second Street SW., Washington, DC 20593–0001.	2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126.
160.051–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	Commandant (CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.051–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.052–1(c)(1)	(CG–521)	(CG–ENG).
160.054–1(b)	(CG–521)	(CG–ENG).
160.055–1(c)	(CG–521)	(CG–ENG).
160.057–1(c)	(CG–521)	(CG–ENG).
160.060–1(c)(1)	(CG–521)	(CG–ENG).
160.072–09(a) introductory text	(CG–521)	(CG–ENG).
160.073–5(b)	(CG–521)	(CG–ENG).
160.076–5 "Commandant" definition	Marine Safety and Environmental Protection. Address: Commandant (CG–5214).	Life Saving and Fire Safety Division: Commandant (CG–ENG–4).
160.076–11(a)	(CG–5214)	(CG–ENG–4).
160.077–2(a)	Marine Safety and Environmental Protection. Address: Commandant (CG–5214).	Life Saving and Fire Safety Division. Address: Commandant (CG–ENG–4).
160.077–5(a)	(CG–5214)	(CG–ENG–4).
160.115–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.115–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.132–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.132–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.133–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.133–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.135–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.135–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.151–3 "Commandant" definition	(CG–5214)	(CG–ENG–4).
160.151–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.156–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.156–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.

Section	Remove	Add
160.170–3 "Commandant" definition	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.170–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street SW.
160.171–3(a)	(CG–5214)	(CG–ENG–4).
160.174–3(a)	(CG–5214)	(CG–ENG–4).
160.176–3(a)	Marine Safety and Environmental Protection. Address: Commandant (CG–5214).	Life Saving and Fire Safety Division. Address: Commandant (CG–ENG–4).
160.176–4(a)	(CG–5214)	(CG–ENG–4).

PART 161—ELECTRICAL EQUIPMENT

■ 158. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 161—[AMENDED]

■ 159. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
161.002–1(a)	(CG–521).	(CG–ENG).
161.002–17	(CG–521).	(CG–ENG).
161.002–18(a) introductory text.	(CG–521).	(CG–ENG).
161.011–10(c)	(CG–521).	(CG–ENG).
161.012–5(a)	(CG–521).	(CG–ENG).
161.013–11(c)(1)	(CG–521).	(CG–ENG).
161.013–17	(CG–521).	(CG–ENG)

PART 162—ENGINEERING EQUIPMENT

■ 160. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 162—[AMENDED]

■ 161. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
162.017–1(b)	(CG–521)	(CG–ENG).
162.017–6(c)	(CG–521)	(CG–ENG).
162.027–1(a)	(CG–521)	(CG–ENG).
162.027–2(b)	(CG–521)	(CG–ENG).
162.050–4(a)	(CG–521)	(CG–ENG).
162.050–15(a)	(CG–5213)	(CG–ENG–3).
162.050–15(e)	(CG–5213)	(CG–ENG–3).
162.050–15(h)	(CG–5213)	(CG–ENG–3).
162.060–5(a)	Commandant (CG–52), Commercial Regulations and Standards Directorate.	Director of Commercial Regulations and Standards (CG–5PS).
162.060–16(c)	Commandant (CG–52), Commercial Regulations and Standards Directorate.	Director of Commercial Regulations and Standards (CG–5PS).
162.060–40(b)	(CG–521)	(CG–ENG).
162.060–40(c)	(CG–521)	(CG–ENG).
162.161–2(a)	(CG–522)	(CG–OES).

PART 164—MATERIALS

■ 162. The authority citation for part 164 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

PART 164—[Amended]

■ 163. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
164.007–1(c)(1)	(CG–521)	(CG–ENG).
164.008–1(c)(1)	(CG–521)	(CG–ENG).
164.009–9(a)	(CG–521)	(CG–ENG).
164.009–9(d)	(CG–521)	(CG–ENG).
164.012–1(b)	(CG–521)	(CG–ENG).
164.013–2(a)	(CG–5214)	(CG–ENG–4).
164.018–7(a)	(CG–521)	(CG–ENG).
164.018–7(a)	An application for approval of retroreflective	An application for approval of retroreflective.

Section	Remove	Add
164.019–3 Commandant definition	Marine Safety and Environmental Protection, U.S. Coast Guard. Address: Commandant (CG–521).	Office of Engineering and Design Standards, U.S. Coast Guard. Address: Commandant (CG–ENG).
164.023–3(a)	(CG–5214)	(CG–ENG–4).
164.120–3 Commandant definition	(CG–5214), U.S. Coast Guard, 2100 Second Street, SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street, SW.
164.120–5(a)	(CG–5214), U.S. Coast Guard, 2100 Second Street, SW.	(CG–ENG–4), U.S. Coast Guard, 2100 2nd Street, SW.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

■ 164. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 167.15–30 [Amended]

■ 165. Amend § 167.15–30(e) by removing the text ''(CG–543)'' and adding, in its place, the text ''(CG–CVC)''.

§ 167.20–1 [Amended]

■ 166. Amend § 167.20–1(a), by removing the text ''American Bureau of Shipping (ABS), Two World Trade Center—106th Floor, New York, NY 10048'' and adding, in its place, the text ''American Bureau of Shipping (ABS), 16855 Northcase Drive, Houston, TX 77060''.

PART 169—SAILING SCHOOL VESSELS

■ 167. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1; § 169.117 also issued under the authority of 44 U.S.C. 3507.

PART 169—[AMENDED]

■ 168. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
169.107, Headquarters definition	United States Coast Guard, Washington, DC 20593.	U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126.
169.115(b)	(CG–521)	(CG–ENG).
169.229(e)	(CG–543)	(CG–CVC).

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

■ 169. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 170.015 [Amended]

■ 170. Amend § 170.015(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

§ 170.090 [Amended]

■ 171. Amend § 170.090(g) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

■ 172. The authority citation for part 171 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 171.012 [Amended]

■ 173. Amend § 171.012(a) by removing the text ''(CG–5212)'' and adding, in its place, the text ''(CG–ENG–2)''.

§ 171.080 [Amended]

■ 174. Amend § 171.080 by removing the text ''171.010(a)'' from footnote (3) to Table 171.080(a) and adding, in its place, the text ''§ 171.010(b)''.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

■ 175. The authority citation for part 172 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 172.020 [Amended]

■ 176. Amend § 172.020(a) by removing the text ''(CG–5212)'' and adding, in its place, the text ''(CG–ENG–2)''.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

■ 177. The authority citation for part 174 continues to read as follows:

Authority: 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 174.007 [Amended]

■ 178. Amend § 174.007(a) by removing the text ''(CG–5212)'' and adding, in its place, the text ''(CG–ENG–2)''.

PART 175—GENERAL PROVISIONS

■ 179. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1; § 175.900 also issued under 44 U.S.C. 3507.

■ 180. In 175.400, in the definition for ''Remotely operated vehicle (ROV) team'', remove the word ''manor'' and add, in its place, the word ''manner.''

§ 175.540 [Amended]

■ 181. Amend § 175.540(d) by removing the text ''(CG–543)'' and adding, in its place, the text ''(CG–CVC)''.

§ 175.600 [Amended]

■ 182. Amend § 175.600(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 179—SUBDIVISION, DAMAGE STABILITY, AND WATERTIGHT INTEGRITY

■ 183. The authority citation for part 179 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 179.15 [Amended]

■ 184. Amend § 179.15(a) by removing the text ''(CG–5212)'' and adding, in its place, the text ''(CG–ENG–2)''.

PART 180—LIFESAVING EQUIPMENT AND ARRANGEMENTS

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

Authority: 46 U.S.C. 2104, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1

§ 180.15 [Amended]

■ 186. Amend § 180.15 by removing paragraphs (a), (b), (e), (f), (g), (h), and (i), and redesignating paragraphs (c), (d), (j), and (k) as paragraphs (a), (b), (c), and (d), respectively.

■ 187. In § 180.200, following Table 180.200(c), remove the text ''§ 180.15(d)'' from the abbreviation ''LF'' and add, in its place, the text ''§ 180.15(b)''.

PART 188—GENERAL PROVISIONS

■ 188. The authority citation for part 188 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 188.35–5 [Amended]

■ 189. Amend § 188.35–5(b) by removing the text ''(CG–543)'' and adding, in its place, the text ''(CG–CVC)''.

PART 189—INSPECTION AND CERTIFICATION

■ 190. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 189—[Amended]

■ 191. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
189.15–5(b)	(CG–521)	(CG–ENG).
189.40–3(e)(1)	(CG–543)	(CG–CVC).
189.40–3(e)(3)	(CG–543)	(CG–CVC).
189.40–3(g)	(CG–543)	(CG–CVC).

PART 193—FIRE PROTECTION EQUIPMENT

■ 192. The authority citation for part 193 continues to read as follows:

Authority: 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 193.01–3 [Amended]

■ 193. Amend § 193.01–3(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 194—HANDLING, USE, AND CONTROL OF EXPLOSIVES AND OTHER HAZARDOUS MATERIALS

■ 194. The authority citation for part 194 continues to read as follows:

Authority: 46 U.S.C. 2103, 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 194.05–3 [Amended]

■ 195. Amend § 194.05–3(b) by removing the text ''(CG–522)'' and adding, in its place, the text ''(CG–OES)''.

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

■ 196. The authority citation for part 195 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 3307; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 195.01–3 [Amended]

■ 197. Amend § 195.01–3(a) by removing the text ''(CG–521)'' and adding, in its place, the text ''(CG–ENG)''.

PART 197—GENERAL PROVISIONS

■ 198. The authority citation for part 197 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 6101; Department of Homeland Security Delegation No. 0170.1.

§ 197.510 [Amended]

■ 199. Amend § 197.510(a) by removing the text ''(CG–522)'' and adding, in its place, the text ''(CG–OES)''.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

■ 200. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L 103–206, 107 Stat. 2439; Department of Homeland Security Delegation No. 0170.1.

PART 199—[AMENDED]

■ 201. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
199.05(a)	(CG–5214), 2100 2nd St., SW	(CG–ENG–4) 2100 2nd Street SW.
199.09	(CG–521)	(CG–ENG).
199.20(a)(1) introductory text	(CG–543)	(CG–CVC).
199.20(a)(2)	(CG–543)	(CG–CVC).
199.20(b)	(CG–543)	(CG–CVC).
199.20(c)	(CG–543)	(CG–CVC).
199.30 ''Major character'' definition	(CG–543)	(CG–CVC).
199.40(c) introductory text	(CG–521)	(CG–ENG).

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 202. The authority citation for part 401 continues to read as follows:

Authority: U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

§ 401.110 [Amended]

■ 203. Amend § 401.110 as follows:

■ a. In paragraph (a)(7), following the words ''whom he'', add the words ''or she'', and following the words ''delegated his'', add the words ''or her''; and

■ b. In paragraph (a)(9), remove the text ''(CG–5522)'' and add, in its place, the text ''(CG–WWM–2), Attn: Director, Great Lakes Pilotage, U.S. Coast Guard,''; and

■ c. In paragraph (a)(16), remove the words ''Director of Great Lakes Pilotage'' and add in their place the words ''Great Lakes Pilotage Division (CG–WWM–2)''.

Title 49

PART 450—GENERAL

■ 204. The authority citation for Part 450 continues to read as follows:

Authority: 46 U.S.C. 80503; Department of Homeland Security Delegation No. 0170.1.

PART 450—[AMENDED]

■ 205. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
450.11(a)	(CG–522)	(CG–OES).
450.11(d)	(CG–522)	(CG–OES).
450.12(a)	(CG–522)	(CG–OES).
450.13(a)	(CG–522)	(CG–OES).
450.13(b)	(CG–522)	(CG–OES).
450.13(c)	(CG–522)	(CG–OES).
450.13(d)	(CG–522)	(CG–OES).
450.14(a)(2)	(CG–522)	(CG–OES).
450.14(a)(3)	(CG–522)	(CG–OES).
450.15(a)	(CG–522)	(CG–OES).
450.16(a) introductory text.	(CG–522)	(CG–OES).
450.16(b) introductory text.	(CG–522)	(CG–OES).

PART 451—TESTING AND APPROVAL OF CONTAINERS

■ 206. The authority citation for Part 451 continues to read as follows:

Authority: 46 U.S.C. 80503; Department of Homeland Security Delegation No. 0170.1.

PART 451—[AMENDED]

■ 207. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
451.1(a)	(CG–522)	(CG–OES).
451.3(a)	(CG–522)	(CG–OES).
451.5(b)	(CG–522)	(CG–OES).
451.18(a)	(CG–522)	(CG–OES).

PART 452—EXAMINATION OF CONTAINERS

■ 208. The authority citation for Part 452 continues to read as follows:

Authority: 46 U.S.C. 80503; Department of Homeland Security Delegation No. 0170.1.

§ 452.7 [Amended]

■ 209. Amend § 452.7(a) by removing the text ''(CG–522)'' and adding, in its place, the text ''(CG–OES)''.

PART 453—CONTROL AND ENFORCEMENT

■ 210. The authority citation for Part 453 continues to read as follows:

Authority: 46 U.S.C. 80503; Department of Homeland Security Delegation No. 0170.1.

PART 453—[AMENDED]

■ 211. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
453.7(a)	(CG–522)	(CG–OES).
453.7(b)	(CG–522)	(CG–OES).
453.7(d)	(CG–522)	(CG–OES).
453.7(e)	(CG–522)	(CG–OES).

Dated: September 19, 2012.

Kathryn Sinniger,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2012–23551 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–04–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 504 and 552

[GSAR Change 55; GSAR Case 2006–G510; Docket 2008–0007; Sequence 13]

RIN 3090–AI72

General Services Administration Acquisition Regulation (GSAR); Rewrite of Part 504; Administrative Matters

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise sections of Administrative Matters and Forms. This final rule is part of the General Services Administration Acquisition Manual (GSAM) rewrite Project, in which all parts of the regulation are being reviewed and updated to include new statutes, legislation, policies, and to delete outdated information and obsolete forms.

DATES: *Effective:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, Procurement Analyst, at 202–357–9652, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1275 First Street, 7th Floor, Washington, DC 20417, 202–501–4755. Please cite GSAR Case 2006–G510.

SUPPLEMENTARY INFORMATION:

I. Background

This rule is a result of the GSAM Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR), and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy. GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**. This rule covers the rewrite of GSAR Part 504, Administrative Matters.

On October 9, 2008, GSA published in the **Federal Register** at 73 FR 59589 a proposed rule with a request for comments.

Two comments were received and are addressed below. In addition, internal

review comments were received and have been incorporated, as appropriate.

II. Discussion and Analysis of the Public Comments

The General Services Administration reviewed the public comments in the development of the final rule. Two public comments were received from one respondent in response to the proposed rule. The comments and responses are as follows:

Comment: One respondent expressed concern that GSAR 504.1303 duplicates information found in FAR 4.1303 and does not add any additional or clarifying language. Thus, the respondent recommended deletion of GSAR 504.1303.

Response: Nonconcur. GSAR 504.1303 provides the prescription for inclusion of the clause at 552.204–9, Personal Identity Verification Requirements, in solicitations and contracts when it is determined that contractor employees will require routine physical access to GSA controlled facilities or information systems to perform contract requirements.

Comment: One respondent recommended deleting the clause at GSAR 552.204–9, in favor of the FAR clause 52.204–9, because the clause does not provide any additional information to the FAR other than vague references to GSA requirements.

Response: Nonconcur. The GSAR clause replaces the FAR clause when the contractor is required to adhere to GSA verification requirements.

Revisions to GSAR Part 504, Administrative Matters, include updating statutory and regulatory references, updating titles, deleting outdated office symbols, eliminating confusing or redundant supplementary material, maintaining consistency with the FAR while eliminating duplication, and editing text for clarity. This final rule amends:

- GSAR Subpart 504.4, Safeguarding Classified Information Within Industry, to delete subtitles, renumber the section, delete former GSAM 504.402(a)(2) and GSAM 504.402(b)(2)in its entirety, and includes some minor revisions for clarity.
- GSAR 504.475, Return of classified information, to delete outdated references, and add a reference to the ''National Industrial Security Program Operating Manual (NISPOM)'', and link to the web address for NISPOM. GSAM 504.475 additionally contains some minor revisions for clarity and to add a new paragraph (c) to address the contractor's responsibility for the return of the classified information.
- GSAR Subpart 504.5, Electronic Commerce in Contracting, to delete GSAR 504.500, Scope of Part, in its entirety. GSAR 504.502, Policy, was revised to add language addressing the methods of authentication used for electronic signatures. Additionally, paragraphs (a), (b), and (c) are deleted in its entirety. GSAR 504.570, Procedures for using EPS, are deleted in its entirety.
- GSAR Subpart 504.6, Contract Reporting, to add GSAR 504.604, Responsibilities, to address FPDS data verification and validation requirements and to include applicable text to address timely and accurate input of data into the Federal Procurement Data System (FPDS).
- GSAR 504.602–71, Federal Procurement Data System—Public Access to Data, is redesignated as GSAR 504.605–70 and paragraph (a) is revised to delete the words ''Federal Acquisition Regulation.''
- GSAR Subpart 504.11, Central Contractor Registration (CCR) and GSAR 504.1103, Procedures, to add the requirement that prior to awarding a contractual instrument, the contracting officer verifies the prospective contractor's legal business name, Doing-Business-As (DBA) name (if any), physical street address, and Data Universal Number System (DUNS) number or DUNS+4 number. Further, the contracting officer is required to verify that the contractor's address code exists in GSA's financial accounting application (Pegasys) and that it is CCR enabled with the contractor's DUNS or DUNS+4 number.
- GSAR Subpart 504.13, Personal Identity Verification of Contractor Personnel, and GSAR 504.1301, Policy, to establish the requirement for ensuring compliance with Homeland Security Presidential Directive-12 (HSPD–12), Policy for a Common Identification Standard for Federal Employees and Contractors; Office of Management and Budget Memorandum M–05–24, Implementation of Homeland Security Presidential Directive (HSPD)12—Policy for a Common Identification Standard for Federal Employees and Contractors; Department of Commerce Federal Information Processing Standards (FIPS) Publication (PUB) 201; and GSA HSPD–12 Personal Identify Verification and Credentialing Standard Operating Procedures.
- GSAR 504.1303, Contract Clause, to add the prescription for GSAR clause 552.204–9, Personal Identity Verification Requirements, which is to be included in solicitations and contracts when it is determined that contractor employees will require routine physical access to federally controlled facilities or information systems to perform contract requirements.
- GSAR 552.204–9, Personal Identity Verification Requirements, to add a clause in contracts when it is determined that contractor employees will require routine physical access to federally controlled facilities or information systems to perform contract requirements.
- GSAM 553.370–1720, GSA Form 1720, Request for Release of Classified Information to U.S. Industry, to delete the form in its entirety. This form was removed from the GSA Forms library due to lack of demand for printed copies.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The General Services Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the changes are editorial in nature, primarily consisting of updating statutory and regulatory references, updating titles, deleting outdated office symbols, and eliminating confusing or redundant supplementary material.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 504 and 552

Government procurement.

Dated: September 11, 2012.

Joseph A. Neurauter,

Senior Procurement Executive/Deputy Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 504 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 504 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 504—ADMINISTRATIVE MATTERS

■ 2. Revise section 504.402 to read as follows:

504.402 General.

(a) This subpart prescribes procedures for safeguarding classified information required to be disclosed to contractors in connection with the solicitation of offers, and the award, performance, and termination of contracts.

(b) As used in this subpart, the term ''Contractor(s)'' means prospective contractors, subcontractors, vendors, and suppliers.

■ 3. Revise section 504.475 to read as follows:

504.475 Return of classified information.

(a) Contracting officers must recover classified information, unless it has been destroyed as provided in Section 7 of Chapter 5 of the National Industrial Security Program Operating Manual (NISPOM). Information on NISPOM can be found at *http://www.fas.org/sgp/library/nispom.htm.*

(b) Contracting officers must ensure that classified information provided by the government is returned immediately after any of the following events:

(1) Bid opening or closing date for receipt of proposals by non-responding offerors.

(2) Contract award by unsuccessful offerors.

(3) Termination or completion of the contract.

(4) Notification that authorization to release classified information has been withdrawn.

(5) Notification that a facility:

(i) Does not have adequate means to safeguard classified information; or

(ii) Has had its security clearance revoked or inactivated.

(6) Whenever otherwise instructed by the authority responsible for the security classification.

(c) The Government agency that provided classified information to a GSA contractor is responsible for the return of the information.

504.500 [Removed and Reserved]

■ 4. Remove and reserve section 504.500.

■ 5. Revise section 504.502 to read as follows:

504.502 Policy.

Use of electronic signatures is encouraged and can be used to sign and route documents in GSA's IT systems to contractually obligate funds. The method of authentication used for electronic signatures shall be consistent with the level (1–4) determined from the e-authentication risk assessment in accordance with OMB M–04–04, E-authentication Guidance for Federal Agencies, and the respective technology safeguards applicable to that level or risk from National Institute of Standards and Technology 800–63, Electronic Authentication Guideline.

504.570 [Removed and Reserved]

■ 6. Remove and reserve section 504.570.

504.602–71 [Redesignated as 504.605–70]

■ 7. Redesignate section 504.602–71 as section 504.605–70.

■ 8. Add section 504.604 to read as follows:

504.604 Responsibilities.

(a) The Senior Procurement Executive (SPE), in coordination with the HCA, shall establish necessary policies to ensure the accurate and timely input of data into FPDS. At a minimum, the SPE and the HCA shall ensure that the following procedures are implemented.

(1) Contract writing systems capable of reporting directly into FPDS shall be configured to do so as a condition of making an award.

(2) To ensure the accuracy of data entered, reports of actions awarded shall be routinely generated from the contract writing system, examined and compared to data contained in FPDS to assure that those actions have been reported accurately to FPDS.

(3) Organizations without a contract writing system shall report the data using the FPDS web portal interface not later than 14 days after an award is made. To ensure data entry and accuracy, logs of contract actions shall must be regularly reviewed and compared to data entries in FPDS.

(4) HCAs shall also verify and validate accuracy of the data and ensure contract awards have been entered into FPDS within the appropriate time frames.

(b) Contracting officers are the individuals primarily responsible for the accuracy of data submitted to FPDS as well as the submission and accuracy of the individual contract action report (CAR).

(c) The contracting officer shall, at a minimum, take the following steps necessary to verify the accuracy of the CAR:

(1) In the case of a contract writing system, review the CAR information for accuracy and completeness prior to submission to FPDS and prior to the release of the contract award.

(2) In the absence of a Contract Writing System, ensure that the CAR information is submitted to FPDS within 14 days after contract award.

(3) To further assure accurate contract data, consider including a copy of the CAR with award documents sent to the contractor for the contractor's knowledge review and information.

(d) The Chief Acquisition Officer (CAO) shall periodically statistically sample the GSA FPDS file and provide a list of transactions to the contracting activities for certification.

(1) The review process should include procedures, comparisons of contract file data to FPDS data entries, and comparisons of printouts of FPDS data to their contract writing system data for accuracy.

(2) The verification and validation shall be conducted by an organization or person that did not award the contracts being reviewed. HCAs may institute any appropriate process that complies with this requirement.

(3) HCAs shall provide certifications of the accuracy, timeliness and validity of their FPDS data on a quarterly basis to the CAO based on the list of transactions provided to HCAs under paragraph (d) of this section. Certifications to the CAO shall include a description of the means used to verify the accuracy and completeness of the data and a statement that all discrepancies found have been corrected.

(e) The CAO will provide the annual certification of GSA's FPDS data to OMB required by FAR 4.604(c). This certification will be based on the Regional and Heads of Services and Staff Offices' reviews and certifications and the CAO's review. Certifications are due not later than 15 working days after the end of the quarter.

504.605–70 [Amended]

■ 9. Amend the newly redesignated section 504.605–70 by removing from paragraph (a) ''Federal Acquisition Regulation (FAR) Subpart'' and adding ''FAR subpart'' in its place.

■ 10. Add Subpart 504.11 to read as follows:

Subpart 504.11—Central Contractor Registration

Sec.
504.1103 Procedures.

Subpart 504.11—Central Contractor Registration

504.1103 Procedures.

In addition to the requirements found in FAR 4.1103, prior to awarding a contractual instrument the contracting officer must—

(1) Verify that the prospective contractor's legal business name, Doing-Business-As (DBA) name (if any), physical street address, and Data Universal Number System (DUNS) number or DUNS+4 number, as found in the CCR, match the information that will be included in the contract, order, or agreement resulting from the vendor's quote or proposal. Correct any mismatches by having the vendor amend the information in the CCR and/or the quote or proposal. The CCR information can be accessed through GSA's CCR repository (contact the GSA Systems Programming Branch for instructions, a user ID, and password).

(2) Ensure that the contractor's address code exists in Pegasys and that it is CCR enabled with the contractor's DUNS or DUNS+4 number. This can be done by searching Pegasys records using the contractor's Taxpayer Identification Number (TIN). If no code exists, request that a new address code be established by the Finance Center for CCR compliance.

(3) Ensure that the contractor's identifying information is correctly placed on the contractual instrument, using special care to ensure that the legal name and ''remit to'' name match exactly. (Note: Lockbox names or numbers should not be used to replace the contractor's name in the remittance block on the contractual instrument.)

(4) Unless one of the exceptions to registration in CCR applies (see FAR 4.1102(a)), the contracting officer must not award a contract to a prospective contractor who is not registered in CCR. If no exceptions are applicable, and the needs of the requiring activity allows for a delay in award, see FAR 4.1103(b)(1).

■ 11. Add Subpart 504.13 to read as follows:

Subpart 504.13—Personal Identity Verification of Contractor Personnel

Sec.
504.1301 Policy.
504.1303 Contract clause.

Subpart 504.13—Personal Identity Verification of Contractor Personnel

504.1301 Policy.

Contracting officers must follow the procedures contained in CIO P2181.1—GSA HSPD–12 Personal Identity Verification and Credentialing Handbook, which may be obtained from the CIO Office of Enterprise Solutions, to ensure compliance with Homeland Security Presidential Directive-12 (HSPD–12) ''Policy for a Common Identification Standard for Federal Employees and Contractors,'' Office of Management and Budget Memorandum M–05–24, and Department of Commerce FIPS PUB 201.

504.1303 Contract clause.

Insert the clause at 552.204–9, Personal Identity Verification Requirements, in solicitations and contracts when it is determined that contractor employees will require access to federally controlled facilities or information systems to perform contract requirements.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Add section 552.204–9 to read as follows:

552.204–9 Personal Identity Verification Requirements.

As prescribed in 504.1303, insert the following clause:

Personal Identity Verification Requirements (Date)

(a) The contractor shall comply with GSA personal identity verification requirements, identified at *http://www.gsa.gov/hspd12,* if contractor employees require access to GSA controlled facilities or information systems to perform contract requirements.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have access to a GSA-controlled facility or access to a GSA-controlled information system.

(End of clause)

[FR Doc. 2012–24028 Filed 9–28–12; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 33

[Docket No. OST 2010–0298]

RIN 2105–AD83

Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule clarifies the priorities and allocation authorities exercised by the Secretary of Transportation (Secretary) under title I of the Defense Production Act of 1950 (Defense Production Act), and establishes the administrative procedures by which the Secretary will exercise this authority. In addition, in this final rule the Department is seeking comments on certain revised definitions found in section 33.20. This rule complies with the requirement in the Defense Production Act Reauthorization of 2009 (Pub. L. 111–67) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and nonemergency conditions, and is part of a multi-agency effort that forms the Federal Priorities and Allocations System.

DATES: This rule is effective on November 30, 2012. *Comment Closing Date:* Comments on the revised definitions are due on October 31, 2012.

ADDRESSES: You may submit written comments on the revised definitions, as well as those regarding the burden-hour estimates or other aspects of the information collection requirements, (identified by the agency name and DOT Docket ID Number OST–2010–0298) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Note that all comments received will be posted without change to *www.regulations.gov* including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

Docket: For internet access to the docket to read background documents and comments received, go to *www.regulations.gov*. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave. SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Donna L. O'Berry, Office of the General Counsel, Department of Transportation, 1200 New Jersey Avenue SE., Room W96–317, Washington, DC 20590; telephone: (202) 366–6136; email: *donna.o'berry@dot.gov;* or Lloyd E. Milburn, Office of Intelligence, Security and Emergency Response, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone: (202) 366–4397; email: *lloyd.milburn@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Regulatory Action

This final rule clarifies the priorities and allocation authorities exercised by the Secretary under title 1 of the Defense Production Act, and establishes the administrative procedures by which the Secretary will exercise this authority. In addition, in this final rule the Department is seeking comments on certain revised definitions found in section 33.20. This rule complies with the requirement in the Defense Production Act Reauthorization of 2009 (Pub. L. 111–67) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and nonemergency conditions, and is part of a multi-agency effort that forms the Federal Priorities and Allocations System.

B. Summary of Major Provisions

The Defense Production Act Reauthorization of 2009 requires each Federal agency with delegated authority under section 101 of the Defense Production Act to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and non-emergency conditions. Congress further directed that, to the extent practicable, the Federal agencies should work together to develop a consistent and unified Federal priorities and allocations system.

In order to meet this mandate, the Department of Transportation (DOT) worked in conjunction with the Departments of Agriculture (USDA), Commerce (DOC), Defense (DoD), Energy (DOE), Health and Human Services (HHS), and Homeland Security (DHS) to develop common provisions that can be used by each Department in its own regulation. The six regulations to be promulgated by each Department with delegated Defense Production Act title I authority comprise the Federal Priorities and Allocations System (FPAS) of rules. DOT's regulation is known as the Transportation Priorities and Allocations System (TPAS). DOT published a Notice of Proposed Rulemaking (NPRM) establishing the proposed structure for TPAS on February 15, 2011 (76 FR 8675). DOT solicited comments on the proposed rule, but did not receive any comments.

C. Cost and Benefits

This regulation sets criteria under which DOT, or agencies to which DOT delegates authority, will authorize prioritization of certain orders or contracts, as well as criteria under which DOT will issue orders allocating materials, services, or facilities. Because the rule mainly affects larger commercial transportation operations, DOT believes that small organizations and small governmental jurisdictions are unlikely to be affected by this rule. To date, DOT has not exercised its existing priorities authority and has only exercised its existing allocations authority for one aviation program and one sealift program, both of which rely on voluntary engagement by industry. Therefore, DOT has no basis on which to estimate the number of small businesses that might be affected by promulgation of this rule.

Although DOT cannot determine precisely the number of small entities that are affected by this rule, for the reasons explained in section IV.D, DOT believes that the overall impact on such entities is not significant and, therefore, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

II. Background

The Defense Production Act of 1950 (Defense Production Act) (50 U.S.C. App. § 2061 *et seq.*) was enacted during the Korean War to ensure the availability of resources to meet national security needs. The Defense Production Act provides a number of important authorities to expedite and expand the supply of critical resources from the U.S. industrial base to support the national defense. While Defense Production Act provisions initially focused on DoD acquisition needs, several significant changes to the Defense Production Act's definition of national defense have been added over time to expand the definition from military, energy, and space activities, to include emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121 *et seq.*) and the protection and restoration of critical infrastructure.

Section 101(a) of title I of the Defense Production Act (50 U.S.C. App. § 2071) authorizes the President:

> (1) To require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

Executive Order 13603, National Defense Resources Preparedness (March 16, 2012),[1] delegates the President's authority under section 101 of the Defense Production Act to the heads of several departments and agencies. The President has delegated this authority to the Secretary of Transportation with respect to all forms of civil transportation.[2]

[1] Executive Order 13603 replaced Executive Order 12919, National Defense Industrial Resource Preparedness, June 3, 1994. In addition to the noted definition modifications for which DOT is seeking comment, the issuance of Executive Order 13603 resulted in editorial changes that are reflected in this final rule.

[2] Section 201 of Executive Order 13603 also delegates Defense Production Act section 101 authority to:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, livestock resources, veterinary resources, plant health resources and the domestic distribution of farm equipment and commercial fertilizer;

(2) The Secretary of Energy with respect to all forms of energy;

(3) The Secretary of Health and Human Services with respect to health resources;

(4) The Secretary of Defense with respect to water resources; and

Section 202 of Executive Order 13603 provides that this delegated authority may only be used to support programs that have been determined in writing as necessary or appropriate to promote the national defense by the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, military use of civil transportation, stockpiles managed by the Department of Defense, space, and directly related activities; the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; or the Secretary of Homeland Security with respect to all other national defense programs, including civil defense and continuity of Government.

The Defense Production Act Reauthorization of 2009 (Pub. L. 111–67, September 30, 2009) requires each Federal agency with delegated authority under section 101 of the Defense Production Act to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and non-emergency conditions. Congress further directed that, to the extent practicable, the Federal agencies should work together to develop a consistent and unified Federal priorities and allocations system.

In order to meet this mandate, DOT worked in conjunction with USDA, DOC, DoD, DOE, HHS, and DHS to develop common provisions that can be used by each Department in its own regulation. The six regulations to be promulgated by each Department with delegated Defense Production Act title I authority comprise the FPAS rules.

DOT's regulation is known as TPAS.[3] DOT published an NPRM establishing the proposed structure for TPAS on February 15, 2011 (76 FR 8675). DOT solicited comments on the proposed rule, but not did receive any comments. However, DOT determined that two non-significant changes, discussed below, were necessary for additional clarity. In addition, Executive Order 13603 updated certain definitions that are applicable to this rule and DOT has included those modifications, also discussed below, in this final rule. Therefore, subject to any comments on the revised definitions, DOT adopts the proposed rule with changes discussed below.

III. Section-by-Section Analysis

Subpart A—General

Section 33.1 Purpose of this part. This section explains that the purpose of this rule is to provide guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to civil transportation, in accordance with the delegation of authority provided in section 201 of Executive Order 13603. This section also lists other agency regulations that, along with this regulation, form FPAS.

Section 33.2 Priorities and allocations authority. This section summarizes the delegations of priorities and allocations authority in section 201 of Executive Order 13603 and explains that these delegated authorities may only be used to support programs that have been determined in writing as necessary or appropriate to promote the national defense by the Secretaries of Defense, Energy, or Homeland Security in their respective areas of jurisdiction, as specified in section 202 of Executive Order 13603.

Section 33.3 Program eligibility. This section lists the categories of programs eligible for priorities and allocations support, in accordance with the definition of ''national defense'' in section 702 of the Defense Production Act (50 U.S.C. App. § 2152).

Subpart B—Definitions

Section 33.20 Definitions. This section contains definitions used in this part. Some definitions are drawn from other sources, as follows:

- Section 702 of the Defense Production Act (50 U.S.C. App. § 2152)—''critical infrastructure,'' ''facilities,'' ''homeland security,'' ''materials,'' ''national defense,'' ''person,'' and ''services.''
- Section 801 of Executive Order 13603—''civil transportation,'' ''energy,'' ''farm equipment,'' ''fertilizer,'' ''food resources,'' ''food resource facilities,'' ''health resources,'' and ''water resources.''
- The current Defense Priorities and Allocations System (DPAS) regulation—''allotment'' (with technical modifications), ''approved program'' (with technical modifications), ''construction,'' ''delegate agency,'' ''directive,'' ''item,'' ''maintenance and repair and operating supplies'' or ''MRO,'' ''official action'' (with technical modifications), ''rated order,'' and ''set-aside'' (with technical modifications).
- Section 602 of the Stafford Act (42 U.S.C. 5195a)—''emergency preparedness'' and ''hazard.''
- Section 18.3 of 49 Code of Federal Regulations—''local government'' and ''state.''

The definitions of ''allocation,'' ''allocation authority,'' and ''allocation order'' are based on language in section 101 of the Defense Production Act that describes the allocation authority of the President.

''Defense Production Act'' means the Defense Production Act of 1950, as amended (50 U.S.C. App. § 2061 *et seq.*).

''Planning order'' defines an administrative tool used by DOT's Maritime Administration.

''Resource agency'' refers to one of the six Federal departments that has been delegated Defense Production Act priorities and allocations authority under section 201 of Executive Order 13603.

''Secretary'' refers to the Secretary of Transportation.

''Selective Service Act'' refers to Section 18 of the Selective Service Act of 1948 (50 U.S.C. App. § 468).

''Stafford Act'' refers to title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195–5197g).

Executive Order 13603 contains modifications to the following definitions: ''civil transportation,'' ''energy,'' ''food resources,'' ''food resource facilities,'' ''health resources,'' and ''water resources.'' The most significant change is the movement of potable water packaged in commercially marketable containers from the jurisdiction of the DoD to the jurisdiction of the USDA. All other modifications are intended to modernize or clarify existing definitions.

Subpart C—Placement of Rated Orders

Section 33.30 Delegation of authority. This section describes the delegation of priorities and allocations authority from the President to the Secretary of Transportation for all forms of civil transportation.

Section 33.31 Priority ratings. This section explains the following: ''DO'' and ''DX'' rating symbols; program identification symbols; order of precedence for directives and ratings;

(5) The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

[3] The other parts that will make up FPAS are:

(1) Agricultural Priorities and Allocations System to be promulgated by the Department of Agriculture;

(2) Defense Priorities and Allocations System promulgated by the Department of Commerce;

(3) Energy Priorities and Allocations System to be promulgated by the Department of Energy;

(4) Health Resources Priorities and Allocations System to be promulgated by the Department of Health and Human Service; and

(5) Water Resources Priorities and Allocations System to be promulgated by the Department of Defense.

and priority ratings that consist of a rating symbol and a program identification symbol.

A ''DX'' rating is reserved for those services or items that are determined to support programs that are of the highest national defense urgency based on the requesting entity's mission objectives. A ''DX'' rating takes precedence over a ''DO'' rating. The Secretary of Transportation must approve all requests for a ''DX'' rating pertaining to civil transportation resources.

Program Identification Symbols (PIS) are used to identify approved programs, meaning a program that has been determined by the Secretaries of DoD, DHS, or DOE, as appropriate, as necessary to promote the national defense. DOT currently has no approved programs, but anticipates working with DOC, DHS, DoD or DOE, as appropriate, in the near future to develop approved programs and will update Schedule I to TPAS as necessary.

In the NPRM, DOT proposed a PIS for DOT-approved programs that would contain the letter ''T'' followed by a letter and a number; for example, T–L1. DOT solicited comments on this proposed PIS structure, but did not receive any comments. All other agencies issuing FPAS rules currently use or are proposing to use a four-digit symbol, consisting of a letter and number for the approved program, such as A1, that is preceded by the priority rating code, for example DO–A1 or DX–A1. In order to ensure consistency among the regulations and to reduce the likelihood of confusion on industry and stakeholders receiving rated orders under other FPAS regulations, DOT is adopting a four-digit symbol as well. DOT's PIS for approved programs will contain the letter ''T'' followed by a number, for example, T1. All approved programs will have equal status. The PIS will be combined with the appropriate priority rating authority, either DX or DO, to form the priority rating, for example DO–T1 or DX–T1.

Section 33.32 Elements of a rated order. This section describes the four elements that must be included in a contract or order to make it a ''rated order,'' in accordance with the standards and procedures provided in this part. The four elements are: (1) A priority rating; (2) specific delivery date(s) for materials or services covered in the rated order; (3) the signature of an individual authorized to place the rated order; and (4) a statement describing what is required of the rated order recipient, in accordance with procedures provided in this part.

This section includes a provision for an additional statement to be included in a rated order involving emergency preparedness, which will require quicker action by the recipient to accept or reject the order. The justification for the expedited timeframes is explained below in the section 33.33 discussion.

Section 33.33 Acceptance and rejection of rated orders. This section describes mandatory and optional conditions for acceptance or rejection of rated orders, as well as customer notification timeframes pertaining to acceptance or rejection. In general, a person is required to accept a rated order if the person normally supplies the materials or services covered by the rated order and must do so regardless of any other orders on hand. Persons are prohibited from charging higher prices, imposing different terms, or any other discriminatory practices for the rated order that are different from a comparable unrated order.

A person is required to reject a rated order if unable to fill the order by the specified delivery date(s) or if the order will interfere with delivery under another rated order with a comparable or higher priority rating. In addition, a person is required to reject a rated order if the person is prohibited by law from meeting the terms of the order; for example, the provider of the services contemplated in the order does not have current operating authority to perform the service. A person has the option of rejecting a rated order if any one of a number of other conditions set forth in the regulation exists.

In the NPRM, DOT proposed that under non-emergency conditions, the recipient of a rated order be required to accept or reject the rated order within fifteen calendar days for a ''DO''-rated order or ten working days for a ''DX''-rated order. (See § 33.33(d)). DOT proposed calendar days instead of working days in order to provide greater specificity for deadlines and sought public comment on the matter. DOT did not receive any comments. However, because of the potential for interaction and overlap with priority orders issued under other FPAS regulatory schemes, DOT believes that the timeframes should be consistent among the FPAS rules; therefore, DOT is adopting working days instead of calendar days to conform to the timeframes in the other FPAS rules. For purposes of this regulation, a working day is a day that the recipient of a rated order is open for business. Thus, if a recipient of a rated order normally closes its operations the week between Christmas and New Year's, that time would not be considered as working days and would not be counted against the rated order timeframe.

While the deadlines discussed above are appropriate for non-emergency circumstances, they are too long for emergency conditions when quick procurement actions may be needed to help save lives, protect property, or restore services. Transportation services are unique in that they are often the first services needed to move people out of harm's way and to move rescue and response personnel and supplies into a disaster area; thus, transportation services often must be marshaled on very short notice. Under TPAS, orders placed for the purpose of emergency preparedness must be accepted or rejected within 6 hours from receipt of the order if the order is issued in response to a hazard that has occurred and within 12 hours from receipt of the order if the order is issued to prepare for an imminent hazard.

As explained in the NPRM, prior to 2008, DOT was the lead Federal agency responsible for providing and managing emergency transportation services, including those necessary for mass evacuations.[4] Our experiences while carrying out this mission, which included managing the massive transportation needs for the evacuation of persons and the movement of supplies, equipment and teams in response to Hurricanes Katrina and Rita, confirm that transportation providers can respond within these expedited timeframes. Specifically, the contract that DOT had in place for transportation services required the contractor to acknowledge an order for service within one hour of receiving the order and to make transportation equipment available at the shipment place of origin to begin moving cargo and passengers within four hours from receipt of the order for service.[5]

[4] In 2007 DOT and DHS entered into a Memorandum of Understanding transferring the responsibility for evacuations and commodity and equipment movements to the Federal Emergency Management Agency (FEMA). New authority given to FEMA in the Post-Katrina Emergency Management Reform Act of 2006 necessitated redefining DOT's role for providing emergency transportation services and for designating the Federal lead for planning, coordinating and conducting evacuations of the general population.

[5] DOT's contract with Landstar Express America, Inc. contained the following requirements for Rapid Response Capability:

Within one (1) hour of receiving the initial Order for Service (OFS) from the Contracting Officer, the Contractor (Landstar) shall acknowledge receipt of the OFS by electronic commerce or fax.

Within four (4) hours of receipt of an OFS, the Contractor shall make transportation equipment available at the shipment place of origin to commence movement of cargo and passengers, using air and surface modes of transportation. The Contractor shall meet all pickup and transit deadlines.

Note that DOT is only requiring acceptance or rejection of a rated order within an expedited timeframe and not the actual fulfillment of the order within that timeframe. The expedited response periods are necessary in order for DOT to rapidly identify and obtain sufficient transportation resources to meet emergency response needs.

DOT is mindful, however, that some circumstances may necessitate closer coordination between DOT and the potential recipient of a rated order. For example, if a rated order is placed in preparation for an imminent hazard, such as a hurricane that is projected to make landfall in 13 hours, DOT obviously does not wish to learn at the end of the 12-hour window that the proposed supplier is unable to accept the rated order. In these situations, DOT will work closely with industry to identify and resolve any potential issues in order to meet the transportation requirements.

Not all regulations promulgated under FPAS will contain such expedited notification requirements because, unlike transportation resources, those resources normally are not required immediately for emergency response. However, for any orders issued under TPAS that ''flow down'' from the prime contractor to a subcontracted supplier of a necessary service, component, or part, the requirements of TPAS will apply to all subcontractors in the procurement or distribution chain. Therefore, transportation service providers should work with their suppliers to ensure they are aware that they may be asked to provide necessary services, parts, or components on an expedited basis.

Section 33.34 Preferential scheduling. This section describes: (1) When a recipient of a rated order must modify production or delivery schedules to satisfy the delivery requirements of a rated order; (2) the order of precedence for rated, unrated, and conflicting orders; and (3) the use of inventoried production items when needed to fill a rated order.

Section 33.35 Extension of priority ratings. This section requires that the recipient of a rated order must, in turn, use rated orders with suppliers to obtain items or services needed to fill a rated order. The requirement applies to all contractors and subcontractors throughout the procurement chain necessary to fill the rated order.

Section 33.36 Changes or cancellations of priority ratings and rated orders. This section describes the procedures for changing or cancelling a priority rating or the provisions of a rated order. In addition, this section lists types of modifications that do not constitute a new rated order.

Section 33.37 Use of rated orders. This section describes the process and procedures for when the recipient of a rated order: (1) Must use rated orders to obtain items and services needed to fulfill the rated order; (2) may use a rated order to replace inventoried items that were used to fulfill the order; (3) may combine orders with different priority ratings or with unrated orders; and (4) may forgo use of rated orders for orders below certain thresholds.

In the NPRM, DOT proposed to use the letter ''E'' for combined programs, resulting in a PIS of DO–T–E plus the number. As previously mentioned, DOT is mindful of the need for consistency among the FPAS regulations, which will all use a four-digit symbol for combined programs. Therefore, although DOT did not receive any comments on its proposed PIS for combined programs, we are adopting ''T9'' as the PIS for combined programs. The ''T9'' will be combined with the appropriate priority rating resulting in a DO–T9 or a DX–T9 PIS for any combined program.

Section 33.38 Limitations on placing rated orders. This section describes specific circumstances when the use of rated orders is prohibited. This section also prohibits the use of TPAS to obtain rated orders for a resource under the resource jurisdiction of other agencies with delegated Defense Production Act priorities and allocations authority, unless specifically authorized by the resource agency.

Subpart D—Special Priorities Assistance

Section 33.40 General provisions. This section explains the circumstances and procedures under which DOT will provide assistance in resolving problems related to priority rated contracts and orders. This section also lists the DOT points of contact and the form to be used to request assistance.

Section 33.41 Requests for priority rating authority. This section establishes the procedures to request rating authority under special circumstances. DOT may grant priority ratings for items and services not normally rated under the regulation in order to prevent a delay of a rated order. This section also specifies that rating authority for production or construction equipment must come from the Department of Commerce. Finally, this section explains when DOT may authorize the use of a priority rating on an order to a supplier in advance of the issuance of a rated prime contract, and the factors DOT will consider in deciding whether to grant such a request.

Section 33.42 Examples of assistance. This section lists examples of when special priority assistance may be provided.

Section 33.43 Criteria for assistance. This section requires that a request for special priorities assistance be timely, that there be an urgent procurement need for the item, and that the applicant make a reasonable effort to resolve the problem for which assistance is needed.

Section 33.44 Instances where assistance may not be provided. This section lists examples of when special priority assistance will not be provided.

Section 33.45 Assistance programs with other nations. Reserved.

Subpart E—Allocation Actions

Section 33.50 Policy. This section explains the policy of the Federal Government regarding use of the allocations authority, which is based on the statutory language in section 101 of the Defense Production Act and the legislative history of section 101.[6] Specifically, allocation authority will be used only when priority authority is unable to provide a sufficient supply of a material, service, or facility to meet the national defense, or when the use of priority authority would cause a severe and prolonged disruption in the supply of materials, services, or facilities available to support normal U.S. economic activities.

Allocation authority will not be used to ration materials or services at the retail level. In other words, allocation authority will not be used to control how much of a product or service a person may have for personal use. For example, DOT could use allocation authority to require the nation's bus companies to dedicate 40% of their bus fleet to a designated emergency, but DOT not could use allocation authority to tell a bus company how to distribute its buses to serve its commercial customers or to tell a bus company how many tickets it could sell to persons in a given month.

Allocation orders will be distributed equitably among similarly situated suppliers of the resources being allocated and will not require any person to relinquish a disproportionate share of the civilian market. Allocation authority will not apply to resources owned by the Federal Government, as

[6] Legislative history indicates that Congress was concerned that national defense requirements, during times of emergency, could consume much of the output of key industrial sectors and selected producers within some sectors. Allocations authority was viewed as a means to ensure an equitable distribution of national defense demand among potential suppliers to avoid disproportionate impacts on each supplier's share of the civilian market.

those resources may be used by the controlling Federal entity in accordance with other governing laws. Nor, generally speaking, will allocation authority apply to resources owned by States, local governments or Native American tribes, as that could potentially undermine other Federal laws. For example, the Stafford Act is designed ''to provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate the suffering and damage which results from * * * disasters * * *.'' 42 U.S.C. 5121(b). Thus, it would be counterproductive for the Federal Government to consider allocating for its own use the very resources the State, local or tribal government could be counting on as part of its response efforts.

The Civil Reserve Air Fleet (CRAF) and the Voluntary Intermodal Sealift Agreement (VISA) are two examples of DOT's use of its allocation authority.[7] Concerning CRAF, under the terms of a Memorandum of Understanding, DOT develops plans and allocates aircraft to the CRAF program based on DoD requirements. DOT advises DoD if it intends to allocate fewer aircraft than requested by DoD, notifies DoD if a particular level of CRAF activation will have a serious adverse impact on the civil air carrier's ability to provide essential service, and works with DoD to identify alternatives or determine ways to minimize the impact. DOT publishes a periodic allocation of aircraft, by registration or ''N'' number, of each airline participating in the CRAF program.

The VISA program is a preparedness program designed to make intermodal shipping services and systems available to DoD as required to support the emergency deployment and sustainment of U.S. military forces. This is done through cooperation among the maritime industry, DOT and DoD pursuant to a voluntary agreement entered into in accordance with Section 708 of the Defense Product Act (50 U.S.C. App. § 2158). During a Stage III activation, the Secretary of DoD will request the Secretary of DOT to allocate sealift capacity based on DoD requirements.

Section 33.51 General procedures. The procedures set out in this section and in section 33.52 are intended to provide a reasonable assurance that allocation authority will be used only in situations where such authority is justified. Section 33.51 sets out the specific requirements and findings that DOT must meet before it can use its allocation authority.

One requirement is for DOT to obtain a written determination from either DoD, DHS or DOE, as appropriate, that the program DOT intends to support through its allocation authority is necessary or appropriate to support the national defense. As previously mentioned, section 202 of Executive Order 13603 requires such a finding before DOT can take an allocation action. Additionally, DOT is required to provide a detailed description of the situation creating the need for allocation and the specific objectives to be obtained through the allocation action; a list of the materials, services, or facilities to be allocated, and of the sources that will be subject to the allocation action; a detailed description of the requirements to be contained in the allocation action, to include the percentage or quantity of capacity to be allocated and the duration of the allocation action; and an evaluation of the potential impact on the civilian market and proposed actions to mitigate any disruption of the civilian market.

Section 33.52 Controlling the general distribution of a material in the civilian market. This section provides procedures for making the findings required by section 101(b) of the Defense Production Act and section 201(e) of Executive Order 13603. Defense Production Act section 101(b) states that the priorities and allocations authority shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship. Section 201(e) of Executive Order 13603 directs each Secretary with delegated authority under section 101 of the Defense Production Act to make the finding required by section 101(b) and submit the finding for the President's approval through the Assistant to the President and National Security Advisor and the Assistant to the President for Homeland Security and Counterterrorism. By definition under the Defense Production Act, services, including transportation services, are not considered a ''material'' as contemplated in section 101(b) of the Defense Production Act or section 201(e) of Executive Order 13603.

Section 33.53 Types of allocation orders. This section describes the three types of allocation orders DOT will issue: A set-aside; an allocation directive; or an allotment. A *set-aside* is an official action that requires a person to reserve a resource capacity in anticipation of receipt of rated orders. An *allocation directive* is an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. For example, an allocation directive could require a person to stop or reduce production of an item or service; prohibit the use of selected materials, services or facilities; divert supply of one type of material, service or facility to another; or supply a specific quantity, size, shape, and type of an item or service within a specific time period. An *allotment* is an official action that specifies the maximum quantity of a material, service, or facility authorized for use in a specific program or application.

Section 33.54 Elements of an allocation order. This section describes the minimum elements of an allocation order. These elements are: (1) A detailed description of the required allocation action(s); (2) specific start and end calendar dates for each required allocation action; (3) the written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary of DOT, which will certify that the order is authorized under this regulation and that the requirements of this part are being followed; (4) a statement that the order is certified for national defense use and that recipients are required to comply with the order; and (5) a copy of the TPAS regulation.

Section 33.55 Mandatory acceptance of an allocation order. This section requires a person to accept and comply with allocation orders if the person is capable of complying. If a person is unable to comply fully with the required actions specified in an allocation order, the person is required to notify DOT immediately, explain the extent to which compliance is possible, and give reasons why full compliance is not possible. Furthermore, notifying DOT of possible non-compliance does not release the person from complying with the allocation order to the extent possible.

[7] CRAF was formed through a joint agreement between DoD and the Department of Commerce. Executive Order 10999 placed responsibility for administration of the CRAF program in the Department of Commerce as a function of the Office of Emergency Transportation. In 1967, the Office of Emergency Transportation transferred in its entirety with its mission, functions and staff into the new Department of Transportation. Responsibility for carrying out the Secretary's role with respect to the CRAF program now resides with the Office of Intelligence, Security and Emergency Response.

This section also states that a person may not discriminate against an allocation order in any manner, such as by charging higher prices or imposing terms and conditions on allocation orders that are different from what the person imposed on contracts or orders for the same resource prior to receiving the allocation order.

Section 33.56 Changes or cancellations of an allocation order. This section states that DOT may modify or cancel an allocation order.

Subpart F—Official Actions

Section 33.60 General provisions. This section sets out the specific official actions that DOT may take to implement the provisions of this regulation. These official actions include Rating Authorizations, Directives, Planning Orders, and Memoranda of Understanding.

Section 33.61 Rating authorizations. This section defines a rating authorization as an official action granting priority rating authority.

Section 33.62 Directives. This section defines a directive as an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. A priority directive takes precedence over rated orders, and allocation directives take precedence over a priority directive.

Section 33.63 Memoranda of Understanding. This section explains that a Memorandum of Understanding is an official action that may be issued to reflect an agreement resolving a request for special priorities assistance. A Memorandum of Understanding may not be used to alter scheduling between rated orders, authorize the use of priority ratings, impose restrictions under this regulation, or take other official actions.

Subpart G—Compliance

Section 33.70 General provisions. This section clarifies that DOT has the authority to enforce or administer the Defense Production Act, this regulation, or an official action. Additionally, this section states that willful violations of title I or section 705 of the Defense Production Act, this regulation, or an official DOT action, are criminal acts, punishable as provided in the Defense Production Act, and as set forth in § 33.74 below.

Section 33.71 Audits and investigations. This section provides the procedures for conducting audits and investigations to ensure that the provisions of the Defense Production Act and other applicable statutes, this regulation, and official actions have been properly followed. This provision is limited to activities conducted under DPA authorities and does not limit the authority of DOT elements to initiate and conduct audits, investigations, or other inquiries under their specific statutes or authorities, nor does it affect the process for such audits, investigations or inquiries.

Section 33.72 Compulsory process. This section explains the procedures DOT may use to seek a compulsory process if a person refuses to permit a duly authorized DOT representative to have access to any premises or any necessary information. For purposes of this regulation, compulsory process means the institution of appropriate legal action, including ex parte application for an inspection warrant or its equivalent in any forum of appropriate jurisdiction. Furthermore, compulsory process under this regulation may be sought in advance of an audit or investigation if DOT believes a person will refuse to comply with the audit or investigation.

Section 33.73 Notification of failure to comply. This section provides procedures for notification of failure to comply with the Defense Production Act, other applicable statutes, this regulation, or an official DOT action.

Section 33.74 Violations, penalties, and remedies. This section sets out the penalties and related actions the Government may take for violations of the provisions of title I or sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act, when applicable, this regulation, or an official DOT action.

Section 33.75 Compliance conflicts. This section require persons to immediately notify DOT if compliance with any provision of the Defense Production Act, other applicable statutes, this part, or an official action will prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, other applicable statutes, this regulation, or an official action.

Subpart H—Adjustments, Exceptions, and Appeals

Section 33.80 Adjustments or exceptions. This section describe the procedures necessary to request an adjustment or exception to a provision of this regulation or an official action on the grounds that it will create an undue or exceptional hardship or compliance is contrary to the intent of the Defense Production Act or this regulation. Such requests must be submitted in writing and the submission of a request for adjustment or exception does not relieve the requester from compliance while the request is being considered by DOT.

Section 33.81 Appeals. This section provides procedures and timeframes for appealing a decision denying relief from a request for an adjustment or exception under this regulation. This section provides for an expedited procedure for appeals involving a rated order placed for the purpose of emergency preparedness.

Subpart I—Miscellaneous Provisions

Section 33.90 Protection against claims. This section provides that a person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this regulation or an official action. This ''hold harmless'' provision applies even if any provision of this regulation or action is subsequently declared to be invalid by judicial or other competent authority.

Section 33.91 Records and reports. This section requires persons to create and preserve for at least three years accurate and complete records of any transaction covered by this regulation or an official action. This section also details the various requirements pertaining to the required records and reports. In addition, this section describes the confidentiality provision of the Defense Production Act pertaining to information submitted under the Defense Production Act or this regulation.

Section 33.92 Applicability of this part and official actions. This section establishes the jurisdictional applicability of this regulation.

Section 33.93 Communications. This section provides DOT contact information for communications concerning this regulation.

IV. Public Comments Received

DOT received no comments on these proposed regulations or on the proposed Form OST F 1254. With the exceptions discussed above, DOT finalizes the rule without change.

V. Regulatory Analyses and Notices

A. Executive Orders 12866 and 13563—Regulatory Planning and Review

This final rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review. Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866. In addition, Executive Order 13563 specifically requires agencies to:

(1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient or excessively burdensome. While the requirements under title I of the Defense Production Act have been in existence for years, these regulations are new to the transportation industry and could be considered to raise novel legal or policy issues under section 3(f)(4) of Executive Order 12866. The rule is not economically significant, however, as it would not have an annual economic impact of over $100 million.

B. Executive Order 13132—Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, Federalism. This final rule will not have a substantial direct effect on, or sufficient federalism implications for, the States, nor will it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

C. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have significant impact on a substantial number of small entities.

Potentially Affected Small Entities

Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, a small business, as described in the Small Business Administration's Table of Small Business Size Standards Matched to North American Industry Classification System Codes (August 2008 Edition), has a maximum annual revenue of $33.5 million and a maximum of 1,500 employees (for some business categories, these number are lower). A small governmental jurisdiction is a government of a city, town, school district or special district with a population of less than 50,000. A small organization is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

This regulation sets criteria under which DOT, or agencies to which DOT delegates authority, will authorize prioritization of certain orders or contracts, as well as criteria under which DOT will issue orders allocating materials, services, or facilities. Because the rule mainly affects larger commercial transportation operations, DOT believes that small organizations and small governmental jurisdictions are unlikely to be affected by this rule. To date, DOT has not exercised its existing priorities authority and has only exercised its existing allocations authority for one aviation program and one sealift program, both of which rely on voluntary engagement by industry. Therefore, DOT has no basis on which to estimate the number of small businesses that might be affected by promulgation of this rule.

Impacts

Although DOT cannot determine precisely the number of small entities that are affected by this rule, DOT believes that the overall impact on such entities is not significant. There are two components in the rule: prioritization and allocation. Under prioritization, DOT or its Delegate Agency designates certain orders as one of two possible rating levels. Once designated, the order is considered a ''rated order.'' A recipient of a rated order must give it priority over an unrated order or an order with a lower priority rating. A recipient of a rated order may place orders at the same priority level with suppliers and subcontractors for supplies and services necessary to fulfill the recipient's rated order and the suppliers and subcontractors must treat the request from the rated order recipient as a rated order with the same priority level as the original rated order. This rule does not require recipients to fulfill rated orders if the price or terms of sale are not consistent with the price or terms of sale of similar non-rated orders. In addition, the rule provides a defense from liability for damage or penalties for actions taken in, or inactions required for, compliance with the rule.

Although rated orders could require a company to fill one order prior to filling another, this would not necessarily require a reduction in the total volume or orders filled. In fact, in most instances rated orders will be fulfilled in addition to other (unrated) contracts and this could actually increase the total amount of business for a firm that receives a rated contract. Additionally, this rule does not require the recipient of a rated order to reduce prices or provide a rated order with more favorable terms than a similar non-rated order. Thus, the economic effects on the rated order recipient of having to substitute a rated order for a non-rated order are likely to be mutually offsetting, resulting in no net economic impact.

Allocations could be used to control the general distribution of materials or services in the civilian market. Specific allocation actions that DOT might take are as follows:

Set-aside: an official action that requires a person to reserve resource capacity in anticipation of receipt of rated orders.

Allocations directive: an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. An allocation directive can require a person to stop or reduce production of an item, prohibit the use of selected items, or divert supply of one type of product to another, or to supply a specific quantity, size, shape, and type of an item within a specific time period.

Allotment: an official action that specifies the maximum quantity of an item authorized for use in a specific program or application.

Allocations will be ordered only in extraordinary circumstances, other than in the two well-established, voluntary programs discussed above. Furthermore, DOT believes that the provisions of section 701(e) of the Defense Production Act, which requires that small businesses be considered in allocations, indicate that any impact on small business will not be significant and may, in fact, provide an economic benefit to small businesses.

Conclusion

Although DOT cannot precisely determine the number of small entities that would be affected by this rule, DOT believes that the overall impact on such entities will not be significant and, therefore, for the reasons set forth above, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

This rule contains an information collection requirement that is subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Office of Management and Budget (OMB) is reviewing the information collection requirement and will provide an OMB control number upon completion. DOT will publish a separate notice in the **Federal Register** once the collection is approved and a control number is assigned. The public reporting burden for submission of Form OST F 1254 is an average of 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB is required to make a decision concerning the collection of information requirements contained in this final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Send comments on this burden estimate or any other aspect of the collection of information to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20505. Comments should also be sent to the Department of Transportation, Attn: Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue SE., Washington DC 20590.

No person is required to respond to or shall be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 49 CFR Part 33

Administrative practice and procedure, Business and industry, Government contracts, National Defense, Reporting and recordkeeping requirements, Strategic and critical materials, Transportation.

Issued in Washington, DC on September 20, 2012.

Ray LaHood,

Secretary of Transportation.

In consideration of the foregoing, the Department is adding Part 33 of Title 49, Code of Federal Regulations, to read as follows:

PART 33—TRANSPORTATION PRIORITIES AND ALLOCATION SYSTEM

Subpart A—General

Sec.
33.1 Purpose of this part.
33.2 Priorities and allocations authority.
33.3 Program eligibility.

Subpart B—Definitions

33.20 Definitions.

Subpart C—Placement of Rated Orders

33.30 Delegation of authority.
33.31 Priority ratings.
33.32 Elements of a rated order.
33.33 Acceptance and rejection of rated orders.
33.34 Preferential scheduling.
33.35 Extension of priority ratings.
33.36 Changes or cancellations of priority ratings and rated orders.
33.37 Use of rated orders.
33.38 Limitations on placing rated orders.

Subpart D—Special Priorities Assistance

33.40 General provisions.
33.41 Requests for priority rating authority.
33.42 Examples of assistance.
33.43 Criteria for assistance.
33.44 Instances where assistance may not be provided.
33.45 Assistance programs with other nations. [Reserved]

Subpart E—Allocation Actions

33.50 Policy.
33.51 General procedures.
33.52 Controlling the general distribution of a material in the civilian market.
33.53 Types of allocation orders.
33.54 Elements of an allocation order.
33.55 Mandatory acceptance of an allocation order.
33.56 Changes or cancellations of an allocation order.

Subpart F—Official Actions

33.60 General provisions.
33.61 Rating Authorizations.
33.62 Directives.
33.63 Memoranda of Understanding.

Subpart G—Compliance

33.70 General provisions.
33.71 Audits and investigations.
33.72 Compulsory process.
33.73 Notification of failure to comply.
33.74 Violations, penalties, and remedies.
33.75 Compliance conflicts.

Subpart H—Adjustments, Exceptions, and Appeals

33.80 Adjustments or exceptions.
33.81 Appeals.

Subpart I—Miscellaneous Provisions

33.90 Protection against claims.
33.91 Records and reports.
33.92 Applicability of this part and official actions.
33.93 Communications.
Appendix I to Part 33—Sample Form OST F 1254
Schedule 1 to Part 33—Approved Programs

Authority: Defense Production Act of 1950, as amended, 50 U.S.C. 82; 50 U.S.C. App. §§ 2061–2171; 50 U.S.C. App § 468; Executive Order 12742, (56 FR 1079, January 8, 1991); Executive Order 13603, (77 FR 16651, March 16, 2012).

Subpart A—General

§ 33.1 Purpose of this part.

This part provides guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to all forms of civil transportation. The guidance and procedures in this part are generally consistent with the guidance and procedures provided in other regulations issued under EO 13603 authority.

§ 33.2 Priorities and allocations authority.

(a) Section 201 of Executive Order 13603 (77 FR 16651, March 16, 2012) delegates the President's authority under section 101 of the Defense Production Act to require acceptance and priority performance of contracts and orders (other than contracts of employment) to promote the national defense over performance of any other contracts or orders, and to allocate materials, services, and facilities as deemed necessary or appropriate to promote the national defense to:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, livestock resources, veterinary resources, plant health resources, and the domestic distribution of farm equipment and commercial fertilizer;

(2) The Secretary of Energy with respect to all forms of energy;

(3) The Secretary of Health and Human Services with respect to health resources;

(4) The Secretary of Transportation with respect to all forms of civil transportation;

(5) The Secretary of Defense with respect to water resources; and

(6) The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

(b) Section 202 of Executive Order 13603 states that the priorities and allocations authority delegated in section 201 of the order may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense:

(1) By the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, military use of civil transportation, stockpiles, managed by the Department of Defense, space, and directly related activities;

(2) By the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; and

(3) By the Secretary of Homeland Security with respect to all other national defense programs, including civil defense and continuity of Government.

§ 33.3 Program eligibility.

Certain programs to promote the national defense are eligible for priorities and allocations support. These include programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Other eligible programs include emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*) and critical infrastructure protection and restoration.

Subpart B—Definitions

§ 33.20 Definitions.

The following definitions pertain to all sections of this part:

Allocation means the control of the distribution of materials, services, or facilities for a purpose deemed necessary or appropriate to promote the national defense.

Allocation authority means the authority of the Department of Transportation, pursuant to section 101 of the Defense Production Act, to allocate materials, services, and facilities for use in approved programs.

Allocation order means an official action to control the distribution of materials, services, or facilities for a purpose deemed necessary or appropriate to promote the national defense.

Allotment means an official action that specifies the maximum quantity of a material, service, or facility authorized for a specific use to promote the national defense.

Approved program means a program determined by the Secretary of Defense, the Secretary of Energy, or the Secretary of Homeland Security to be necessary or appropriate to promote the national defense, in accordance with section 202 of Executive Order 13603.

Civil transportation includes movement of persons and property by all modes of transportation in interstate, intrastate, or foreign commerce within the United States, its territories and possessions, and the District of Columbia, and related public storage and warehousing, ports, services, equipment and facilities, such as transportation carrier shop and repair facilities. ''Civil transportation'' also shall include direction, control, and coordination of civil transportation capacity regardless of ownership. ''Civil transportation'' shall not include transportation owned or controlled by the Department of Defense, use of petroleum and gas pipelines, and coal slurry pipelines used only to supply energy production facilities directly.

Construction means the erection, addition, extension, or alteration of any building, structure, or project, using materials or products which are to be an integral and permanent part of the building, structure, or project. Construction does not include maintenance and repair.

Critical infrastructure means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.

Defense Production Act means the Defense Production Act of 1950, as amended (50 U.S.C. App. § 2061 *et seq.*).

Delegate Agency means a government agency authorized by delegation from the Department of Transportation to place priority ratings on contracts or orders needed to support approved programs.

Directive means an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions.

Emergency preparedness means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

(1) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

(2) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

(3) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

Energy means all forms of energy including petroleum, gas (both natural and manufactured), electricity, solid fuels (including all forms of coal, coke, coal chemicals, coal liquification, and coal gasification), solar, wind, other types of renewable energy, atomic energy, and the production, conservation, use, control, and distribution (including pipelines) of all of these forms of energy.

Facilities includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

Farm equipment means equipment, machinery, and repair parts manufactured for use on farms in connection with the production or preparation for market use of food resources.

Fertilizer means any product or combination of products that contain one or more of the elements nitrogen, phosphorus, and potassium for use as a plant nutrient.

Food resources means all commodities and products, (simple, mixed, or compound), or complements to such commodities or products, that are capable of being ingested by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. ''Food resources'' also means potable water packaged in commercially marketable containers, all starches, sugars, vegetable and animal or marine fats and oils, seed, cotton, hemp, and flax fiber, but does not mean any such material after it loses its identity as an

agricultural commodity or agricultural product.

Food resource facilities means plants, machinery, vehicles (including on farm), and other facilities required for the production, processing, distribution, and storage (including cold storage) of food resources, and for the domestic distribution of farm equipment and fertilizer (excluding transportation thereof).

Hazard means an emergency or disaster resulting from—

(1) A natural disaster; or

(2) An accidental or man-caused event.

Health resources means drugs, biological products, medical devices, materials, facilities, health supplies, services and equipment required to diagnose, mitigate or prevent the impairment of, improve, treat, cure, or restore the physical or mental health conditions of the population.

Homeland security includes efforts—

(1) To prevent terrorist attacks within the United States;

(2) To reduce the vulnerability of the United States to terrorism;

(3) To minimize damage from a terrorist attack in the United States; and

(4) To recover from a terrorist attack in the United States.

Item means any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Maintenance and repair and operating supplies or *MRO*—

(1) ''Maintenance'' is the upkeep necessary to continue any plant, facility, or equipment in working condition.

(2) ''Repair'' is the restoration of any plant, facility, or equipment to working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, or failure of parts.

(3) ''Operating supplies'' are any resources carried as operating supplies according to a person's established accounting practice. Operating supplies may include hand tools and expendable tools, jigs, dies, fixtures used on production equipment, lubricants, cleaners, chemicals and other expendable items.

(4) MRO does not include items produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, or items required for the production of such items; items needed for the replacement of any plant, facility, or equipment; or items for the improvement of any plant, facility, or equipment by replacing items which are still in working condition with items of a new or different kind, quality, or design.

Materials includes—

(1) Any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

(2) Any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

National defense means programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Such term includes emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and critical infrastructure protection and restoration.

Official action means an action taken by the Department of Transportation or another resource agency under the authority of the Defense Production Act, Executive Order 13603, and this part. Such actions include, but are not limited to, the issuance of Rating Authorizations, Directives, Set-Asides, Allotments, Planning Orders, Memoranda of Understanding, Demands for Information, Inspection Authorizations, and Administrative Subpoenas.

Person includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

Planning order means notification of tentative arrangements to meet national defense requirements issued in priority order or allocation order format, for planning purposes only.

Rated order means a prime contract, a subcontract, or a purchase order in support of an approved program issued in accordance with the provisions of this part.

Resource agency means any agency delegated priorities and allocations authority as specified in § 33.2.

Secretary means the Secretary of Transportation.

Selective Service Act refers to Section 18 of the Selective Service Act of 1948 (50 U.S.C. App. § 468).

Services includes any effort that is needed for or incidental to—

(1) The development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item;

(2) The construction of facilities;

(3) The movement of individuals and property by all modes of civil transportation; or

(4) Other national defense programs and activities.

Set-aside means an official action that requires a person to reserve materials, services, or facilities capacity in anticipation of the receipt of rated orders.

Stafford Act means title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5195–5197g).

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Water resources means all usable water, from all sources, within the jurisdiction of the United States, that can be managed, controlled, and allocated to meet emergency requirements, except ''water resources'' does not include usable water that qualifies as ''food resources.''

Subpart C—Placement of Rated Orders

§ 33.30 Delegation of authority.

The priorities and allocations authorities of the President under title I of the Defense Production Act with respect to all forms of civil transportation have been delegated to the Secretary of Transportation under section 201(a)(4) of Executive Order 13603 of March 16, 2012 (77 FR 16651).

§ 33.31 Priority ratings.

(a) *Levels of priority.* (1) There are two levels of priority established by the Transportation Priorities and Allocations System regulations, identified by the rating symbols ''DO'' and ''DX''.

(2) All DO-rated orders have equal priority with each other and take

precedence over unrated orders. All DX-rated orders have equal priority with each other and take precedence over DO-rated orders and unrated orders. (For resolution of conflicts among rated orders of equal priority, see § 33.34(c).)

(3) In addition, a Directive regarding priority treatment for a given item issued by the resource agency with priorities jurisdiction for that item takes precedence over any DX-rated order, DO-rated order, or unrated order, as stipulated in the Directive. (For a full discussion of Directives, see § 33.62.)

(b) *Program identification symbols.* Program identification symbols indicate which approved program is being supported by a rated order. DOT will use the letter ''T'' followed by a number for all transportation-related approved programs. Programs may be approved under the procedures of Executive Order 13603 at any time. Program identification symbols, in themselves, do not connote any priority.

(c) *Priority ratings.* A priority rating consists of the rating symbol—DO and DX—and the program identification symbol, such as DO–T1 or DX–T1 for a priority rating under TPAS.

§ 33.32 Elements of a rated order.

Each rated order must include:

(a) The appropriate priority rating (*e.g.* DO–T1 or DX–T1);

(b) A required delivery date or dates. The words ''immediately'' or ''as soon as possible'' do not constitute a delivery date. A ''requirements contract,'' ''basic ordering agreement,'' ''prime vendor contract,'' or similar procurement document bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items or service from time-to-time or within a stated period against specific purchase orders, such as ''calls,'' ''requisitions,'' and ''delivery orders.'' These purchase orders must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original procurement document;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of an individual authorized to sign rated orders for the person placing the order. The signature or use of the name certifies that the rated order is authorized under this part and that the requirements of this part are being followed; and

(d)(1) A statement that reads in substance:

This is a rated order certified for national defense use, and you are required to follow all the provisions of the Transportation Priorities and Allocations System regulation at 49 CFR Part 33.

(2) If the rated order is placed in support of emergency preparedness requirements and expedited action is necessary and appropriate to meet these requirements, the following sentences should be added following the statement set forth in paragraph (d)(1) above:

This rated order is placed for the purpose of emergency preparedness. It must be accepted or rejected within *[INSERT NUMBER OF HOURS REQUIRED IN § 33.33]* hours from receipt of the order, in accordance with § 33.33(e) of the Transportation Priorities and Allocations System regulation at 49 CFR Part 33.

§ 33.33 Acceptance and rejection of rated orders.

(a) *Mandatory acceptance.* (1) Except as otherwise specified in this section, a person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.

(2) A person shall not discriminate against rated orders in any manner such as by charging higher prices or by imposing different terms and conditions than for comparable unrated orders.

(b) *Mandatory rejection.* Unless otherwise directed by the Department of Transportation for a rated order involving all forms of civil transportation:

(1) A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made and offer to accept the order on the basis of that date. Scheduling conflicts with previously accepted lower rated or unrated orders are not sufficient reason for rejection under this section.

(2) A person shall not accept a DO-rated order for delivery on a date which would interfere with delivery of any previously accepted DO- or DX-rated orders. However, the person must offer to accept the order based on the earliest delivery date otherwise possible.

(3) A person shall not accept a DX-rated order for delivery on a date which would interfere with delivery of any previously accepted DX-rated orders, but must offer to accept the order based on the earliest delivery date otherwise possible.

(4) If a person is unable to fill all of the rated orders of equal priority status received on the same day, the person must accept, based upon the earliest delivery dates, only those orders which can be filled, and reject the other orders. For example, a person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. However, the person must offer to accept the rejected orders based on the earliest delivery dates otherwise possible.

(5) A person shall not accept a rated order if the person is prohibited by Federal law from meeting the terms of the order.

(c) *Optional rejection.* Unless otherwise directed by the Department of Transportation for a rated order involving all forms of civil transportation, rated orders may be rejected in any of the following cases as long as a supplier does not discriminate among customers:

(1) If the person placing the order is unwilling or unable to meet regularly established terms of sale or payment;

(2) If the order is for an item not supplied or for a service not capable of being performed;

(3) If the order is for an item or service produced, acquired, or provided only for the supplier's own use for which no orders have been filled for two years prior to the date of receipt of the rated order. If, however, a supplier has sold some of these items or provided similar services, the supplier is obligated to accept rated orders up to that quantity or portion of production or service, whichever is greater, sold or provided within the past two years;

(4) If the person placing the rated order, other than the U.S. Government, makes the item or performs the service being ordered;

(5) If acceptance of a rated order or performance against a rated order would violate any other regulation, official action, or order of the Department of Transportation, issued under the authority of the Defense Production Act or another relevant statute.

(d) *Customer notification requirements.* (1) Except as provided in paragraph (e) of this section, a person must accept or reject a rated order in writing or electronically within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the person must give reasons in writing or electronically for the rejection.

(2) If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date. If notification is given verbally, written or

electronic confirmation must be provided within five (5) working days.

(e) *Exception for emergency preparedness conditions.* If a rated order is placed for the purpose of emergency preparedness and includes the additional statement set forth in § 33.32(d)(2), a person must accept or reject the rated order and transmit the acceptance or rejection in writing or in an electronic format:

(1) Within six (6) hours after receipt of the order if the order is issued in response to a hazard that has occurred; or

(2) Within the greater of twelve (12) hours from receipt of the order or the time specified in the order, if the order is issued to prepare for an imminent hazard.

§ 33.34 Preferential scheduling.

(a) A person must schedule operations, including the acquisition of all needed production items or services, in a timely manner to satisfy the delivery requirements of each rated order. Modifying production or delivery schedules is necessary only when required delivery dates for rated orders cannot otherwise be met.

(b) DO-rated orders must be given production or performance preference over unrated orders, if necessary to meet required delivery dates, even if this requires the diversion of items being processed or ready for delivery or services being performed against unrated orders. Similarly, DX-rated orders must be given preference over DO-rated orders and unrated orders. (Examples: If a person receives a DO-rated order with a delivery date of June 3 and if meeting that date would mean delaying production or delivery of an item for an unrated order, the unrated order must be delayed. If a DX-rated order is received calling for delivery on July 15 and a person has a DO-rated order requiring delivery on June 2 and operations can be scheduled to meet both deliveries, there is no need to alter production schedules to give any additional preference to the DX-rated order.)

(c) *Conflicting rated orders.* (1) If a person finds that delivery or performance against any accepted rated orders conflicts with the delivery or performance against other accepted rated orders of equal priority status, the person shall give precedence to the conflicting orders in the sequence in which they are to be delivered or performed (not to the receipt dates). If the conflicting orders are scheduled to be delivered or performed on the same day, the person shall give precedence to those orders that have the earliest receipt dates.

(2) If a person is unable to resolve rated order delivery or performance conflicts under this section, the person should promptly seek special priorities assistance as provided in §§ 33.40 through 33.44. If the person's customer objects to the rescheduling of delivery or performance of a rated order, the customer should promptly seek special priorities assistance as provided in §§ 33.40 through 33.44. For any rated order against which delivery or performance will be delayed, the person must notify the customer as provided in § 33.33.

(d) If a person is unable to purchase needed production items in time to fill a rated order by its required delivery date, the person must fill the rated order by using inventoried production items. A person who uses inventoried items to fill a rated order may replace those items with the use of a rated order as provided in § 33.37(b).

§ 33.35 Extension of priority ratings.

(a) A person must use rated orders with suppliers to obtain items or services needed to fill a rated order. The person must use the priority rating indicated on the customer's rated order, except as otherwise provided in this part or as directed by the Department of Transportation. For example, if a person is in receipt of a DO–T1 priority rating for a bus and has several buses in inventory that are in need of repair, that person must use a DO–T1 rated order to obtain the needed bus repairs.

(b) The priority rating must be included on each successive order placed to obtain items or services needed to fill a customer's rated order. This continues from contractor to subcontractor to supplier throughout the entire procurement chain.

§ 33.36 Changes or cancellations of priority ratings and rated orders.

(a) The priority rating on a rated order may be changed or canceled by:

(1) An official action of the Department of Transportation; or

(2) Written notification from the person who placed the rated order.

(b) If an unrated order is amended so as to make it a rated order, or a DO rating is changed to a DX rating, the supplier must give the appropriate preferential treatment to the order as of the date the change is received by the supplier.

(c) An amendment to a rated order that significantly alters a supplier's original production or delivery schedule shall constitute a new rated order as of the date of its receipt. The supplier must accept or reject the amended order according to the provisions of § 33.33.

(d) The following amendments do not constitute a new rated order: a change in shipping destination; a reduction in the total amount of the order; an increase in the total amount of the order which has negligible impact upon deliveries; a minor variation in size or design; or a change which is agreed upon between the supplier and the customer.

(e) If a person no longer needs items or services to fill a rated order, any rated orders placed with suppliers for the items or services, or the priority rating on those orders, must be canceled.

(f) When a priority rating is added to an unrated order, or is changed or canceled, all suppliers must be promptly notified in writing.

§ 33.37 Use of rated orders.

(a) A person must use rated orders to obtain:

(1) Items which will be physically incorporated into other items to fill rated orders, including that portion of such items normally consumed or converted into scrap or by-products in the course of processing;

(2) Containers or other packaging materials required to make delivery of the finished items against rated orders;

(3) Services, other than contracts of employment, needed to fill rated orders; and

(4) MRO needed to produce the finished items to fill rated orders.

(b) A person may use a rated order to replace inventoried items (including finished items) if such items were used to fill rated orders, as follows:

(1) The order must be placed within 90 days of the date of use of the inventory.

(2) A DO rating and the program identification symbol indicated on the customer's rated order must be used on the order. A DX rating may not be used even if the inventory was used to fill a DX-rated order.

(3) If the priority ratings on rated orders from one customer or several customers contain different program identification symbols, the rated orders may be combined. In this case, the program identification symbol ''T9'' must be used (*i.e.,* DO–T9).

(c) A person may combine DX- and DO-rated orders from one customer or several customers if the items or services covered by each level of priority are identified separately and clearly. If different program identification symbols are indicated on those rated orders of equal priority, the person must use the program identification symbol ''T9'' (*i.e.,* DO–T9 or DX–T9).

(d) Combining rated and unrated orders.

(1) A person may combine rated and unrated order quantities on one purchase order provided that:

(i) The rated quantities are separately and clearly identified; and

(ii) The four elements of a rated order, as required by § 33.32, are included on the order with the statement required in § 33.32(d) modified to read in substance:

This purchase order contains rated order quantities certified for national defense use, and you are required to follow all the provisions of the Transportation Priorities and Allocations System regulations at 49 CFR Part 33 only as it pertains to the rated quantities.

(2) A supplier must accept or reject the rated portion of the purchase order as provided in § 33.33 and give preferential treatment only to the rated quantities as required by this part. This part may not be used to require preferential treatment for the unrated portion of the order.

(3) Any supplier who believes that rated and unrated orders are being combined in a manner contrary to the intent of this part or in a fashion that causes undue or exceptional hardship may submit a request for adjustment or exception under § 33.80.

(e) A person may place a rated order for the minimum commercially procurable quantity even if the quantity needed to fill a rated order is less than that minimum. However, a person must combine rated orders as provided in paragraph (c) of this section, if possible, to obtain minimum procurable quantities.

(f) A person is not required to place a priority rating on an order for less than $75,000, or one-half of the Simplified Acquisition Threshold (as established in the Federal Acquisition Regulations (FAR) (see FAR section 2.101) or in other authorized acquisition regulatory or management systems), whichever amount is greater, provided that delivery can be obtained in a timely fashion without the use of the priority rating.

§ 33.38 Limitations on placing rated orders.

(a) *General limitations.* (1) A person may not place a DO- or DX-rated order unless entitled to do so under this part.

(2) Rated orders may not be used to obtain:

(i) Delivery or performance on a date earlier than needed;

(ii) A greater quantity of the item or services than needed, except to obtain a minimum procurable quantity. Separate rated orders may not be placed solely for the purpose of obtaining minimum procurable quantities on each order;

(iii) Items or services in advance of the receipt of a rated order, except as specifically authorized by the Department of Transportation (see § 33.41(c) for information on obtaining authorization for a priority rating in advance of a rated order);

(iv) Items that are not needed to fill a rated order, except as specifically authorized by the Department of Transportation, or as otherwise permitted by this part;

(v) Any of the following items unless specific priority rating authority has been obtained from the Department of Transportation, a Delegate Agency, or the Department of Commerce, as appropriate:

(A) Items for plant improvement, expansion, or construction, unless they will be physically incorporated into a construction project covered by a rated order; and

(B) Production or construction equipment or items to be used for the manufacture of production equipment (For information on requesting priority rating authority, see § 33.41); or

(vi) Any items related to the development of chemical or biological warfare capabilities or the production of chemical or biological weapons, unless such development or production has been authorized by the President or the Secretary of Defense.

(b) *Jurisdictional limitations.* (1) Unless authorized by the resource agency with jurisdiction, the provisions of this part are not applicable to the following resources:

(i) Food resources, food resource facilities, livestock resources, veterinary resources, plant health resources, and the domestic distribution of farm equipment and commercial fertilizer (Resource agency with jurisdiction—Department of Agriculture);

(ii) All forms of energy (Resource agency with jurisdiction—Department of Energy);

(iii) Health resources (Resource agency with jurisdiction—Department of Health and Human Services);

(iv) Water resources (Resource agency with jurisdiction—Department of Defense/U.S. Army Corps of Engineers); and

(v) All materials, services, and facilities, including construction materials the authority for which has not been delegated to other agencies under Executive Order 13603. (Resource Agency with jurisdiction—Department of Commerce);

(vi) Communications services (Resource agency with jurisdiction—National Communications System under Executive Order 12472 of April 3, 1984).

(2) [Reserved]

Subpart D—Special Priorities Assistance

§ 33.40 General provisions.

(a) TPAS is designed to be largely self-executing. However, from time-to-time production or delivery problems will arise. In this event, a person should immediately contact DOT's Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue SE., Washington, DC 20590, for guidance or assistance. If the problem(s) cannot otherwise be resolved, special priorities assistance should be sought from the Department of Transportation through the Director, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue SE., Washington, DC 20590. If the Department of Transportation is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, the Department of Transportation may forward the request to another resource agency, as appropriate, for action. Special priorities assistance is a service provided to alleviate problems that do arise.

(b) Special priorities assistance is available for any reason consistent with this part. Generally, special priorities assistance is provided to expedite deliveries, resolve delivery conflicts, place rated orders, locate suppliers, or to verify information supplied by customers and vendors. Special priorities assistance may also be used to request rating authority for items that are not normally eligible for priority treatment.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form OST F 1254 (OMB control number to be inserted in the subsequent final rule) to the Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue SE., Washington, DC 20590. Form OST F 1254 may be obtained from the Department of Transportation or a Delegate Agency. A sample Form OST F 1254 is attached at Appendix I to this part.

§ 33.41 Requests for priority rating authority.

(a) If a rated order is likely to be delayed because a person is unable to obtain items or services not normally rated under this part, the person may request the authority to use a priority

rating in ordering the needed items or services.

(b) *Rating authority for production or construction equipment.* (1) A request for priority rating authority for production or construction equipment must be submitted to the U.S. Department of Commerce on FORM BIS–999. (See 15 CFR 700.51).

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment, a rated order may be used either to purchase or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment or from a person willing to lease rather than sell.

(c) *Rating authority in advance of a rated prime contract.* (1) In certain cases and upon specific request, the Department of Transportation, in order to promote the national defense, may authorize a person to place a priority rating on an order to a supplier in advance of the issuance of a rated prime contract. In these instances, the person requesting advance rating authority must obtain sponsorship of the request from the Department of Transportation or the appropriate Delegate Agency. The person shall also assume any business risk associated with the placing of rated orders if these orders have to be cancelled in the event the rated prime contract is not issued.

(2) The person must state the following in the request:

It is understood that the authorization of a priority rating in advance of our receiving a rated prime contract from the Department of Transportation and our use of that priority rating with our suppliers in no way commits the Department of Transportation or any other government agency to enter into a contract or order or to expend funds. Further, we understand that the Federal Government shall not be liable for any cancellation charges, termination costs, or other damages that may accrue if a rated prime contract is not eventually placed and, as a result, we must subsequently cancel orders placed with the use of the priority rating authorized as a result of this request.

(3) In reviewing requests for rating authority in advance of a rated prime contract, the Department of Transportation will consider, among other things, the following criteria:

(i) The probability that the prime contract will be awarded;

(ii) The impact of the resulting rated orders on suppliers and on other authorized programs;

(iii) Whether the contractor is the sole source;

(iv) Whether the item being produced has a long lead time; and

(v) The time period for which the rating is being requested.

(4) The Department of Transportation may require periodic reports on the use of the rating authority granted under paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person shall promptly notify all suppliers who have received rated orders pursuant to the advanced rating authority that the priority rating on those orders is cancelled.

§ 33.42 Examples of assistance.

(a) While special priorities assistance may be provided for any reason in support of this part, it is usually provided in situations where:

(1) A person is experiencing difficulty in obtaining delivery against a rated order by the required delivery date; or

(2) A person cannot locate a supplier for an item or service needed to fill a rated order.

(b) Other examples of special priorities assistance include:

(1) Ensuring that rated orders receive preferential treatment by suppliers;

(2) Resolving production or delivery conflicts between various rated orders;

(3) Assisting in placing rated orders with suppliers;

(4) Verifying the urgency of rated orders; and

(5) Determining the validity of rated orders.

§ 33.43 Criteria for assistance.

Requests for special priorities assistance should be timely, *e.g.,* the request has been submitted promptly and enough time exists for the Department of Transportation or the Delegate Agency to effect a meaningful resolution to the problem, and must establish that:

(a) There is an urgent need for the item; and

(b) The applicant has made a reasonable effort to resolve the problem.

§ 33.44 Instances where assistance may not be provided.

Special priorities assistance is provided at the discretion of the Department of Transportation or the Delegate Agencies, when it is determined that such assistance is warranted to meet the objectives of this part. Examples where assistance may not be provided include situations when a person is attempting to:

(a) Secure a price advantage;

(b) Obtain delivery prior to the time required to fill a rated order;

(c) Gain competitive advantage;

(d) Disrupt an industry apportionment program in a manner designed to provide a person with an unwarranted share of scarce items; or

(e) Overcome a supplier's regularly established terms of sale or conditions of doing business.

§ 33.45 Assistance programs with other nations. [Reserved]

Subpart E—Allocation Actions

§ 33.50 Policy.

(a) It is the policy of the Federal Government that the allocations authority under title I of the Defense Production Act may:

(1) Only be used when there is insufficient supply of a material, service, or facility to satisfy national defense supply requirements through the use of the priorities authority or when the use of the priorities authority would cause a severe and prolonged disruption in the supply of materials, services, or facilities available to support normal U.S. economic activities; and

(2) Not be used to ration materials or services at the retail level.

(b) Allocation orders, when used, will be distributed equitably among the suppliers of the materials, services, or facilities being allocated and not require any person to relinquish a disproportionate share of the civilian market.

§ 33.51 General procedures.

When the Department of Transportation plans to execute its allocations authority to address a supply problem within its resource jurisdiction, the Department shall develop a plan that includes the following information:

(a) A copy of the written determination made in accordance with section 202 of Executive Order 13603, that the program or programs that would be supported by the allocation action are necessary or appropriate to promote the national defense;

(b) A detailed description of the situation to include any unusual events or circumstances that have created the requirement for an allocation action;

(c) A statement of the specific objective(s) of the allocation action;

(d) A list of the materials, services, or facilities to be allocated;

(e) A list of the sources of the materials, services, or facilities that will be subject to the allocation action;

(f) A detailed description of the provisions that will be included in the allocation orders, including the type(s) of allocation orders, the percentages or quantity of capacity or output to be allocated for each purpose, and the duration of the allocation action (*e.g.,* anticipated start and end dates);

(g) An evaluation of the impact of the proposed allocation action on the civilian market; and

(h) Proposed actions, if any, to mitigate disruptions to civilian market operations.

§ 33.52 Controlling the general distribution of a material in the civilian market.

No allocation action by the Department of Transportation may be used to control the general distribution of a material in the civilian market, unless the Secretary of the Department of Transportation has:

(a) Made a written finding that:

(1) Such material is a scarce and critical material essential to the national defense, and

(2) The requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship;

(b) Submitted the finding for the President's approval through the Assistant to the President and National Security Advisor and the Assistant to the President for Homeland Security and Counterterrorism; and

(c) The President has approved the finding.

§ 33.53 Types of allocation orders.

There are three types of allocation orders available for communicating allocation actions. These are:

(a) Set-aside: An official action that requires a person to reserve materials, services, or facilities capacity in anticipation of the receipt of rated orders;

(b) Directive: An official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. For example, a directive can require a person to: stop or reduce production of an item; prohibit the use of selected materials, services, or facilities; or divert the use of materials, services, or facilities from one purpose to another; and

(c) Allotment: An official action that specifies the maximum quantity of a material, service, or facility authorized for a specific use.

§ 33.54 Elements of an allocation order.

Each allocation order must include:

(a) A detailed description of the required allocation action(s);

(b) Specific start and end calendar dates for each required allocation action;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary. The signature or use of the name certifies that the order is authorized under this part and that the requirements of this part are being followed;

(d) A statement that reads in substance: ''This is an allocation order certified for national defense use. [Insert the legal name of the person receiving the order] is required to comply with this order, in accordance with the provisions of the Transportation Priorities and Allocations System regulation (49 CFR Part 33)''; and

(e) A current copy of the Transportation Priorities and Allocations System regulation (49 CFR Part 33) as of the date of the allocation order.

§ 33.55 Mandatory acceptance of an allocation order.

(a) Except as otherwise specified in this section, a person shall accept and comply with every allocation order received.

(b) A person shall not discriminate against an allocation order in any manner such as by charging higher prices for materials, services, or facilities covered by the order or by imposing terms and conditions for contracts and orders involving allocated materials, services, or facilities that differ from the person's terms and conditions for contracts and orders for the materials, services, or facilities prior to receiving the allocation order.

(c) If a person is unable to comply fully with the required action(s) specified in an allocation order, the person must notify the Department of Transportation immediately, explain the extent to which compliance is possible, and give the reasons why full compliance is not possible. If notification is given verbally, written or electronic confirmation must be provided within five (5) working days. Such notification does not release the person from complying with the order to the fullest extent possible, until the person is notified by the Department of Transportation that the order has been changed or cancelled.

§ 33.56 Changes or cancellations of an allocation order.

An allocation order may be changed or canceled by an official action of the Department of Transportation.

Subpart F—Official Actions

§ 33.60 General provisions.

(a) The Department of Transportation may take specific official actions to implement the provisions of this part.

(b) These official actions include, but are not limited to, Rating Authorizations, Directives, Planning Orders, and Memoranda of Understanding.

§ 33.61 Rating authorizations.

(a) A Rating Authorization is an official action granting specific priority rating authority that:

(1) Permits a person to place a priority rating on an order for an item or service not normally ratable under this part; or

(2) Authorizes a person to modify a priority rating on a specific order or series of contracts or orders.

(b) To request priority rating authority, see § 33.41.

§ 33.62 Directives.

(a) A Directive is an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions.

(b) A person must comply with each Directive issued. However, a person may not use or extend a Directive to obtain any items from a supplier, unless expressly authorized to do so in the Directive.

(c) A Priorities Directive takes precedence over all DX-rated orders, DO-rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

(d) An Allocations Directive takes precedence over all Priorities Directives, DX-rated orders, DO-rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

§ 33.63 Memoranda of Understanding.

(a) A Memorandum of Understanding is an official action that may be issued in resolving special priorities assistance cases to reflect an agreement reached by all parties (the Department of Transportation, the Department of Commerce (if applicable), a Delegate Agency (if applicable), the supplier, and the customer).

(b) A Memorandum of Understanding is not used to alter scheduling between rated orders, authorize the use of priority ratings, impose restrictions under this part, or take other official actions. Rather, Memoranda of Understanding are used to confirm production or shipping schedules that do not require modifications to other rated orders.

Subpart G—Compliance

§ 33.70 General provisions.

(a) The Department of Transportation may take specific official actions for any reason necessary or appropriate to the enforcement or the administration of the Defense Production Act and other

applicable statutes or this part. Such actions include Administrative Subpoenas, Demands for Information, and Inspection Authorizations.

(b) Any person who places or receives a rated order or an allocation order must comply with the provisions of this part.

(c) Willful violation of the provisions of title I or Section 705 of the Defense Production Act and other applicable statutes, this part, or an official action of the Department of Transportation, is a criminal act, punishable as provided in the Defense Production Act and other applicable statutes, and as set forth in section 33.74 of this part.

§ 33.71 Audits and investigations.

(a) Audits and investigations are official actions involving the examination of books, records, documents, other writings and information to ensure that the provisions of the Defense Production Act and other applicable statutes, this part, and official actions have been properly followed. An audit or investigation may also include interviews and a systems evaluation to detect problems or failures in the implementation of this part.

(b) When undertaking an audit, investigation, or other inquiry, the Department of Transportation shall:

(1) Define the scope and purpose in the official action given to the person under investigation; and

(2) Have ascertained that the information sought or other adequate and authoritative data are not available from any Federal or other responsible agency.

(c) In administering this part, the Department of Transportation may issue the following documents that constitute official actions:

(1) *Administrative Subpoenas.* An Administrative Subpoena requires a person to appear as a witness before an official designated by the Department of Transportation to testify under oath on matters of which that person has knowledge relating to the enforcement or the administration of the Defense Production Act and other applicable statutes, this part, or official actions. An Administrative Subpoena may also require the production of books, papers, records, documents and physical objects or property.

(2) *Demands for Information.* A Demand for Information requires a person to furnish to a duly authorized representative of the Department of Transportation any information necessary or appropriate to the enforcement or the administration of the Defense Production Act and other applicable statutes, this part, or official actions.

(3) *Inspection Authorizations.* An Inspection Authorization requires a person to permit a duly authorized representative of the Department of Transportation to interview the person's employees or agents, to inspect books, records, documents, other writings, and information, including electronically-stored information, in the person's possession or control at the place where that person usually keeps them or otherwise, and to inspect a person's property when such interviews and inspections are necessary or appropriate to the enforcement or the administration of the Defense Production Act and related statutes, this part, or official actions.

(d) The production of books, records, documents, other writings, and information will not be required at any place other than where they are usually kept if, prior to the return date specified in the Administrative Subpoena or Demand for Information, a duly authorized official of the Department of Transportation is furnished with copies of such material that are certified under oath to be true copies. As an alternative, a person may enter into a stipulation with a duly authorized official of the Department of Transportation as to the content of the material.

(e) An Administrative Subpoena, Demand for Information, or Inspection Authorization, shall include the name, title, or official position of the person issuing the document and of the person to be served, the evidence sought to be adduced, and its general relevance to the scope and purpose of the audit, investigation, or other inquiry. If employees or agents are to be interviewed; if books, records, documents, other writings, or information are to be produced; or if property is to be inspected; the Administrative Subpoena, Demand for Information, or Inspection Authorization will describe them with particularity.

(f) Service of documents shall be made in the following manner:

(1) Service of a Demand for Information or Inspection Authorization shall be made personally, or by Certified Mail-Return Receipt Requested at the person's last known address. Service of an Administrative Subpoena shall be made personally. Personal service may also be made by leaving a copy of the document with someone at least 18 years old at the person's last known dwelling or place of business.

(2) Service upon other than an individual may be made by serving a partner, corporate officer, or a managing or general agent authorized by appointment or by law to accept service of process. If an agent is served, a copy of the document shall be mailed to the person named in the document.

(3) Any individual 18 years of age or over may serve an Administrative Subpoena, Demand for Information, or Inspection Authorization. When personal service is made, the individual making the service shall prepare an affidavit as to the manner in which service was made and the identity of the person served, and return the affidavit, and in the case of subpoenas, the original document, to the issuing officer. In case of failure to make service, the reasons for the failure shall be stated on the original document.

(g) This section is neither intended to limit the authority of the Inspector General of the Department of Transportation to initiate and conduct audits and investigations nor confer additional authority beyond that provided by the Inspector General Act.

§ 33.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of the Department of Transportation to have access to any premises or source of information necessary to the administration or the enforcement of the Defense Production Act and other applicable statutes, or this part, the Department of Transportation representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including *ex parte* application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Department of Transportation there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

§ 33.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, the Department of Transportation may inform the person in writing where compliance with the requirements of the Defense Production Act and other applicable statutes, this part, or an official action were not met.

(b) In cases where the Department of Transportation determines that failure to comply with the provisions of the Defense Production Act and other applicable statutes, this part, or an official action was inadvertent, the

person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willful violation of the Defense Production Act and other applicable statutes, this part, or an official action.

§ 33.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of title 1 or section 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act, this part, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty currently provided by the Defense Production Act is a $10,000 fine, or one year in prison, or both. The maximum penalty currently provided by the Selective Service Act is a $50,000 fine, or three years in prison, or both.

(b) The Government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act, this part, or an official action.

(c) In order to secure the effective enforcement of the Defense Production Act and other applicable statutes, this part, and official actions, the following are prohibited:

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the Defense Production Act and other applicable statutes, this part, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the Defense Production Act and other applicable statutes, this part, or an official action.

(3) No person shall deliver any item or perform any service if the person knows or has reason to believe that the item will be accepted, redelivered, held, or used in violation of the Defense Production Act and other applicable statutes, this part, or an official action. In such instances, the person must immediately notify the Department of Transportation that, in accordance with this provision, delivery of the item or performance of the service has not been made.

§ 33.75 Compliance conflicts.

If compliance with any provision of the Defense Production Act and other applicable statutes, this part, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act and other applicable statutes, this part, or an official action, the person must immediately notify the Department of Transportation for resolution of the conflict.

Subpart H—Adjustments, Exceptions, and Appeals

§ 33.80 Adjustments or exceptions.

(a) A person may submit a request to the Defense Production Act Activities Coordinator, Office of Intelligence Security, and Emergency Response, 1200 New Jersey Avenue SE., Washington, DC 20590, for an adjustment or exception on the ground that:

(1) A provision of this part or an official action results in an undue or exceptional hardship on that person not suffered generally by others in similar situations and circumstances; or

(2) The consequences of following a provision of this part or an official action are contrary to the intent of the Defense Production Act and other applicable statutes, or this part.

(b) Each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to the provision of this part or official action from which adjustment or exception is sought and a full and precise statement of the reasons why relief should be provided.

(c) The submission of a request for adjustment or exception shall not relieve any person from the obligation of complying with the provision of this part or official action in question while the request is being considered unless such interim relief is granted in writing by the Office of Intelligence, Security, and Emergency Response.

(d) A decision of the Defense Production Act Activities Coordinator under this section may be appealed to the Assistant Secretary for Administration. (For information on the appeal procedure, see § 33.81.)

§ 33.81 Appeals.

(a) Any person who has had a request for adjustment or exception denied by the Defense Production Act Activities Coordinator under § 33.80, may appeal to the Department of Transportation's Assistant Secretary for Administration, who shall review and reconsider the denial.

(b)(1) Except as provided in paragraph (b)(2) of this section, an appeal must be received by the Assistant Secretary for Administration no later than 45 days after receipt of a written notice of denial from the Defense Production Act Activities Coordinator. After this 45-day period, an appeal may be accepted at the discretion of the Assistant Secretary for Administration for good cause shown.

(2) For requests for adjustment or exception involving rated orders placed for the purpose of emergency preparedness, an appeal must be received by the Assistant Secretary for Administration, no later than five (5) days after receipt of a written notice of denial from the Defense Production Act Activities Coordinator. Contract performance under the order shall not be stayed pending resolution of the appeal.

(c) Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from, all necessary documents, and a full and precise statement of the reasons the decision should be modified or reversed.

(d) In addition to the written materials submitted in support of an appeal, an appellant may request, in writing, an opportunity for an informal hearing. This request may be granted or denied at the discretion of the Assistant Secretary for Administration.

(e) When a hearing is granted, the Assistant Secretary for Administration may designate an employee of the Office of the Senior Procurement Executive to conduct the hearing and to prepare a report. The hearing officer shall determine all procedural questions and impose such time or other limitations deemed reasonable. In the event that the hearing officer decides that a printed transcript is necessary, all expenses shall be borne by the appellant.

(f) When determining an appeal, the Assistant Secretary for Administration may consider all information submitted during the appeal as well as any recommendations, reports, or other relevant information and documents available to the Department of Transportation, or consult with any other persons or groups.

(g) The submission of an appeal under this section shall not relieve any person from the obligation of complying with the provision of this part or official action in question while the appeal is being considered unless such relief is granted in writing by the Assistant Secretary for Administration.

(h) The decision of the Assistant Secretary for Administration shall be made within five (5) working days after receipt of the appeal, or within one (1) working day for appeals pertaining to emergency preparedness and shall be the final administrative action. It shall be issued to the appellant in writing

with a statement of the reasons for the decision.

Subpart I—Miscellaneous Provisions

§ 33.90 Protection against claims.

A person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this part, or an official action, notwithstanding that such provision or action shall subsequently be declared invalid by judicial or other competent authority.

§ 33.91 Records and reports.

(a) Persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by this part or an official action.

(b) Records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of this part or any official action. However, this part does not specify any particular method or system to be used.

(c) Records required to be maintained by this part must be made available for examination on demand by duly authorized representatives of the Department of Transportation as provided in § 33.71.

(d) In addition, persons must develop, maintain, and submit any other records and reports to the Department of Transportation that may be required for the administration of the Defense Production Act and other applicable statutes, and this part.

(e) Section 705(d) of the Defense Production Act, as implemented by Executive Order 13603, provides that information obtained under this section which the Secretary deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the Secretary determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to the Department of Transportation in connection with the enforcement or administration of the Defense Production Act, this part, or an official action, is deemed to be confidential under section 705(d) of the Defense Production Act and shall be handled in accordance with applicable Federal law.

§ 33.92 Applicability of this part and official actions.

(a) This part and all official actions, unless specifically stated otherwise, apply to transactions in any State, territory, or possession of the United States and the District of Columbia.

(b) This part and all official actions apply not only to deliveries to other persons but also include deliveries to affiliates and subsidiaries of a person and deliveries from one branch, division, or section of a single entity to another branch, division, or section under common ownership or control.

(c) This part and its schedules shall not be construed to affect any administrative actions taken by the Department of Transportation, or any outstanding contracts or orders placed pursuant to any of the parts, orders, schedules or delegations of authority previously issued by the Department of Transportation pursuant to authority granted by the President to the Department under in the Defense Production Act. Such actions, contracts, or orders shall continue in full force and effect under this part unless modified or terminated by proper authority.

§ 33.93 Communications.

All communications concerning this part, including requests for copies of the part and explanatory information, requests for guidance or clarification, and requests for adjustment or exception shall be addressed to the Defense Production Act Activities Coordinator, Office of Intelligence, Security and Emergency Response, 1200 New Jersey Avenue SE., Washington, DC 20590.

BILLING CODE 4910–9X–P

Appendix I to Part 33 – Sample Form OST F 1254

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
READ INSTRUCTIONS FOLLOWING FORM

FOR DOT USE
OMB Control Number: 2105-XXXX
Expiration Date: mm/dd/yyyy

You must submit a completed application in order to request Special Priorities Assistance (SPA). See sections 33.40-33.44 of the Transportation Priorities and Allocations System (TPAS) regulation (49 CFR 33). It is a criminal offense under 18 U.S.C. 1001 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction. All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. App. 2155(d)] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Transportation will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment.

The U.S. Department of Transportation reserves the right to request more detailed information from Applicant(s) on any responses given in the completed application for the purpose of making determinations for Special Priorities Assistance to Applicant(s).

PUBLIC BURDEN STATEMENT

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2105-XXXX. Public reporting for this collection of information is estimated to be approximately 30 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Defense Production Act Activities Coordinator, U.S. Department of Transportation, Office of Intelligence, Security and Emergency Response, W56-306, 1200 New Jersey Avenue, SE, Washington, DC 20590.

1. APPLICANT INFORMATION

a. Name and complete address of Applicant. Applicant can be any person needing assistance – a government agency, a private company, a contractor, or service supplier. See definition of "Applicant" in the Instructions for this form.

Applicant Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact's name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

b. If Applicant is not end-user, give name and complete address of the end-user.

Customer Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact's name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

Existing contract/purchase order #: _____

Dated: _____ Priority Rating: _____

2. APPLICANT SERVICE(S) OR ITEM(S). If Applicant is not end-user, describe service(s) or items(s) to be delivered by Applicant under its customer's contract or purchase order through the use of service(s) or items(s) listed in Section 3. If known, identify the Government program and service or end-item for which these service(s) or items(s) are required. If Applicant is end-user Government agency and Section 3 service(s) or item(s) are not end-items, identify the end-service or end-item for which the Section 3 service(s) or item(s) are required. See definition of "service" and "item" in the Footnotes section of the Instructions for this form.

OPI: Office of Intelligence, Security, and Emergency Response

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
READ INSTRUCTIONS FOLLOWING FORM

FOR DOT USE
OMB Control Number: 2105-XXXX
Expiration Date: mm/dd/yyyy

3. SERVICES OR ITEMS FOR WHICH APPLICANT REQUESTS ASSISTANCE

Name and Quantity	Description	Estimated Dollar Value

4. SUPPLIER OF ITEM OR SERVICE PROVIDER INFORMATION

a. Name and complete address of Applicant's Supplier/Provider.

Supplier/Provider Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact Name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

b. Applicant's contract or purchase order to Supplier/Provider.

Number: _____

Dated: _____

Priority rating:
(If none, so state)

5. BRIEF JUSTIFICATION STATEMENT OF NEED FOR SPECIAL ASSISTANCE. Please provide a brief justification for this request for Special Priorities Assistance. The justification should begin with the reason you are seeking Special Priorities Assistance in support of the TPAS; e.g.: when its regular provisions are not sufficient to obtain delivery of service(s) or items(s) in time to meet urgent customer or program requirements; or help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating. If Applicant(s) are requesting authority to use a priority rating, please explain the necessity of the requested items and/or services. As applicable, also explain the potential effects of delay in receipt of Section 3 items or services. Describe attempts to procure items/services in normal market conditions and give specific reasons why special priority assistance is required. If DX priority rating authority is requested, please explain the necessity over a DO priority rating.

OPI: Office of Intelligence, Security, and Emergency Response

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
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6. CERTIFICATION: I certify that the information contained in Sections 1 – 5 of this form, and all other information attached, is correct and complete to the best of my knowledge and belief (omit signature if this form is electronically generated and transmitted - use of name is deemed certification).

Signature of Applicant's authorized official	Title
Print or type Name of Applicant's authorized official	Date

CONTINUATION SECTION
Identify each statement with appropriate Section number

OPI: Office of Intelligence, Security, and Emergency Response

Instructions for Using OMB Form 2105-XXXX

REQUEST FOR SPECIAL PRIORITIES ASSISTANCE

WHO DO I CONTACT FOR FURTHER INFORMATION?

Email: S60.Policy@dot.gov

Mail: Defense Production Act Activities Coordinator, U.S. Department of Transportation, Office of Intelligence, Security and Emergency Response, W56-306, 1200 New Jersey Avenue, SE, Washington, DC 20590

Phone: 202-366-1863

Fax: 202-366-4902

HOW DO I SUBMIT THIS FORM?

Email. Please fill out form electronically using Adobe Acrobat Reader and send by email, if possible. Otherwise, print and scan your signed evaluation to a pdf document and email to S60.Policy@dot.gov.

Fax. Fax your signed evaluation to (202) 366-4902.You will receive an email confirmation.

DOT may contact you for additional clarifying information, and will respond to you in a timely manner with a decision regarding your request.

WHEN SHOULD THIS FORM BE USED?

Requests for Special Priorities Assistance (SPA) may be filed with the U.S. Department of Transportation (DOT) for any reason in support of the Transportation Priorities and Allocations System (TPAS); e.g.: when its regular provisions are not sufficient to obtain delivery of service(s) or items(s) in time to meet urgent customer or program requirements; or help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating.

Requests for SPA must be sponsored by the U.S. Government agency responsible for the program or project supported by the Applicant's contract or purchase order.

Generally, one form should be completed for each contract or purchase order number. However, if SPA is requested for multiple contracts or purchase orders placed with a supplier for the same or similar services or items, information from all contracts or purchase orders may be included in one application. However, each contract or purchase order number must be identified and shown separately.

WHO SHOULD COMPLETE THE FORM?

Private sector applicants should file with their respective customers as follows: **lower-tier suppliers** file with customer/subcontractor for forwarding to subcontractor/prime contractor; **subcontractors/suppliers** file with prime contractor for forwarding to DOT or the sponsoring U.S. Government Agency, as applicable; **prime contractors** file directly with DOT or the sponsoring U.S. Government Agency, as applicable. If for any reason the applicant is unable to file this form as specified above, see section below on "Who do I contact for further information?"

DEFINITIONS:

Applicant as used in this form refers to any person requiring Special Priorities Assistance, and eligible for such assistance under TPAS.

Item is defined in TPAS as any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

Person is defined in TPAS to include any individual, corporation, partnership, association, any other organized group of persons, a U.S. Government agency, or any other government.

Service is defined in TPAS to include any effort that is needed for or incidental to (1) the development, production, processing, distribution, deliver, or use of an industrial resource or a critical technology item; (2) the construction of facilities; (3) the movement of individuals and property by all modes of civil transportation; or (4) other national defense programs and activities

SPECIFIC INSTRUCTIONS

Section 1:

a. Information about the applicant should go here. An "applicant" refers to any person requiring Special priorities Assistance and eligible for such assistance under the TPAS. A "person" in this context is any individual, corporation, partnership, association, or other organized group of persons, a US Government agency or any other government.
b. Information about the end-user or ultimate customer for the item or service goes here.

Section 2:

Recognizing that many requests for special priorities may involve interim services or items, please complete this section describing the "end product" that will be improved through providing the priority listed. An example would be providing freight rail transportation for a subcomponent of a major item that is direly needed for the national defense by the Government. Explain how the transportation of the subcomponent will fulfill the Government's need.

Section 3:

Here you provide information on the item or service you provide and seek special priority assistance with. What is it called, how many or how much, what is the description and also the estimated dollar value of the item/service itself. This helps DOT understand the scope of your request.

Section 4:

This section helps DOT understand who your supplier or service provider is. These are the people who need to move faster to accomplish your priority objective.

Section 5:

Please provide enough information so DOT understands the need for and urgency of your request.

Section 6:

This section certifies that the information is correct, to the best knowledge of the person whose name and/or signature is shown (depending on format of form used). It is a criminal offense under 18 U.S.C. 1011 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction.

Continuation Section

Understanding that situations requiring requests for special priorities assistance may be complex and information required not easily confined to sections on a form, you are provided this opportunity to provide any additional information that will assist DOT in making a determination on your request.

SPECIAL INSTRUCTIONS:

- If the space in any block is insufficient to provide a clear and complete statement of the information requested, use a separate sheet to be attached to this form.
- If disclosure of certain information on this form is prohibited by security regulations or other security considerations, enter "classified" or "confidential" in the appropriate block in lieu of the restricted information.
- The U.S. Department of Transportation

reserves the right to request more detailed information from Applicant(s) on any responses given in the completed application for the purpose of making determinations for Special Priorities Assistance to Applicant(s).

PRIVACY ACT STATEMENT

This notice is provided pursuant to the Privacy Act, 5, U.S.C. 552a(e)(3): The Information on this application is solicited under the authority of Title 50 U.S.C. App. § 2061 et seq., the Defense Production Act of 1950. The principal purpose for which the information is to be used is to determine your eligibility for Special Priorities Assistance under the Transportation Priorities and Allocations System program. Contact information will be used to notify you if Special Priorities Assistance has been granted, and to provide any other notifications required by the program. Other possible uses of information are published in the Federal Register at 75 FR 82133 (December 29, 2010) under "Prefatory Statement of General Routine Uses". Furnishing the information on this form is voluntary, but failure to provide all or part of the information may delay or prevent the processing of your application.

Schedule 1 to Part 33—Approved Programs

The programs listed in this schedule have been approved for priorities and allocations support under this part by DoD, DOE, or DHS, in accordance with section 203 of Executive Order 13603. They have equal preferential status.

Approved Program—[Reserved]

Program Identification Symbol—[Reserved]

[FR Doc. 2012–23789 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–9X–C

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 303, 325, 350, 355, 356, 360, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, 396, 397, 398, and 399, and Appendices B and G of Subchapter B of Chapter III

[Docket No. FMCSA–2012–0274]

RIN 2126–AB54

Technical, Organizational, and Conforming Amendments to the Federal Motor Carrier Safety Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule makes technical corrections throughout title 49 CFR subtitle B, chapter III. The Agency is making minor editorial changes to add revised delegations of authority from the Secretary of Transportation (Secretary), correct errors and omissions, and improve clarity. This rule does not make any substantive changes to the affected parts of the Federal Motor Carrier Safety Regulations (FMCSRs).

DATES: Effective October 1, 2012. The incorporation by reference of a certain publication listed in the rule is approved by the Director of the **Federal Register** as of October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Andrea Manka or Elaine Walls, Federal Motor Carrier Safety Administration, Office of the Chief Counsel, Regulatory Affairs Division, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone, for Ms. Manka at (202) 366–0975 or via email at *andrea.manka@dot.gov;* and for Ms. Walls at (202) 366–1394 or via email at *elaine.walls@dot.gov.* Office hours are from 9 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

I. Legal Basis for the Rulemaking

Congress delegated certain powers to regulate interstate commerce to the United States Department of Transportation (DOT) in numerous pieces of legislation, most notably in section 6 of the Department of Transportation Act (DOT Act) (Pub. L. 85–670, 80 Stat. 931 (1966)). Section 55 of the DOT Act transferred to DOT the authority of the former Interstate Commerce Commission (ICC) to regulate the qualifications and maximum hours-of-service of employees, the safety of operations, and the equipment of motor carriers in interstate commerce. *See* 49 U.S.C. 104. This authority, first granted to the ICC in the Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543, Aug. 9, 1935), now appears in chapter 315 of title 49 of the U.S. Code. The regulations issued under this authority became known as the FMCSRs, appearing generally at 49 CFR parts 350–399. The administrative powers to enforce chapter 315 were also transferred from the ICC to the DOT in 1966 and appear in chapter 5 of title 49 of the U.S. Code. The Secretary of DOT delegated oversight of these provisions to the Federal Highway Administration (FHWA), a predecessor agency of FMCSA.

Between 1984 and 1999, a number of statutes added to FHWA's authority. Various statutes authorize the enforcement of the FMCSRs, the Hazardous Materials Regulations (HMRs), and the Commercial Regulations, and provide both civil and criminal penalties for violations. These statutes include the Motor Carrier Safety Act of 1984 (Pub. L. 98–554, 98 Stat. 2832, Oct. 30, 1984), codified at 49 U.S.C. chapter 311, subchapter III; the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99–570, 100 Stat. 3207–170, Oct. 27, 1986), codified at 49 U.S.C. chapter 313; the Hazardous Materials Transportation Uniform Safety Act of 1990, as amended (Pub. L. 101–615, 104 Stat. 3244, Nov. 16, 1990), codified at 49 U.S.C. chapter 51; and the ICC Termination Act of 1995 (Pub. L. 104–88, 109 Stat. 803, Dec. 29, 1995), codified at 49 U.S.C. chapters 131–149.

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748, Dec. 9, 1999) established FMCSA as a new operating administration within the DOT, effective January 1, 2000. The motor carrier safety staff and responsibilities previously assigned to FHWA are now assigned to FMCSA. Congress expanded, modified, and amended FMCSA's authority in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Pub. L. 107–56, 115 Stat. 272, Oct. 26, 2001), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144, Aug. 10, 2005), the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572, June 6, 2008), and the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, July 6, 2012).

Most of the provisions of the FMCSRs amended by this rule are based on the statutes detailed above. The legal authority for each of those provisions was explained when the requirement was originally adopted and is summarized at the beginning of each part in title 49 of the Code of Federal Regulations (CFR). No further analysis is required here. Title 49 CFR subtitle B, chapter III, contains all of the FMCSRs.

On August 17, 2012, the Secretary issued a final rule (77 FR 49964) to update the CFR sections that set forth the organizational structure of the Department and delegations of authority from the Secretary to other modal administrations—including the FMCSA. Because the Secretary revised part 1 of subtitle A of title 49, CFR, by moving FMCSA delegations from 49 CFR 1.73 to 49 CFR 1.87, FMCSA must also revise all of its delegations of authority citations in chapter III of subtitle B of title 49, CFR, to accommodate this change.

The Administrative Procedure Act (APA) (5 U.S.C. 553) specifically provides that exceptions to its notice and public comment rulemaking procedures are not required where the Agency finds there is good cause (and incorporates the finding and a brief statement of reasons therefor in the rules issued) to dispense with them. Generally, good cause exists where the Agency determines that notice and public procedures are impractical, unnecessary, or contrary to the public interest. (see 5 U.S.C. 553(b). The amendments made in this final rule merely correct inadvertent errors and omissions, remove obsolete references, and make minor editorial changes to improve clarity and consistency. The technical amendments do not impose any new requirements, nor do they make any substantive changes to the CFR. For these reasons, the FMCSA finds good cause that notice and public

comment are unnecessary. Further, the Agency finds good cause under 5 U.S.C. 553(b)(B) and 553(d)(3) to make the amendments effective upon publication.

II. Background

This document makes editorial changes to correct inaccurate references and citations, improve clarity, and fix errors. The reasons for each of these minor editorial changes are set out below, in a section-by-section description of the changes. These amendments do not impose any new requirements, nor do they make substantive changes to the CFR. Notice and comment are unnecessary. See 5 U.S.C. 553(b).

III. Section-by-Section Analysis

The changes throughout chapter III of title 49 CFR are occasioned by DOT's reorganizing its rules governing delegations of authority in 49 CFR chapter 1. Each of the revised authority citations is set out in the regulatory text, below, but will not be addressed separately in this section-by-section analysis.

Section 350.105. The definition for ''Border Activity Funds'' is removed from this section, as SAFETEA–LU mandated that these funds be removed from the Motor Carrier Safety Assistance Program (MCSAP) as ineligible for use in a border region.

Section 350.205(a). The phrase ''Motor Carrier'' is removed from this paragraph and the phrase ''Division Administrator/'' is inserted in front of ''State Director.'' The head of each FMCSA State office is the Division Administrator. The Agency, however, has one remaining State Director, in the Puerto Rico Division.

Section 350.213(o). This paragraph is removed because the Agency no longer uses the MCSAP–1 form, and the following paragraph designations are changed accordingly.

Section 350.313(b). This paragraph is removed because the provision does not correctly state how grant funding can be provided. The Agency actually provides Motor Carrier Safety Assistance Program (MCSAP) grant funding for reimbursable items in paragraphs (a)(1) and (a)(2) of this section.

Section 350.327(f). This paragraph is removed, as all States participating in MCSAP also participate in SAFETYNET (a cooperative effort to share motor carrier safety information among States and FMCSA) and their data are uploaded electronically into FMCSA databases that can be accessed by FMCSA to determine each State's status in meeting the eligibility requirements. A separate certification requirement is, therefore, redundant and no longer necessary.

Section 350.329. The phrase ''or Border Activity'' is removed from the heading, as Border Activity Enforcement Grants are not an eligible use under MCSAP.

Section 350.331(b). The phrase ''Motor Carrier'' is removed from this paragraph and the phrase ''Division Administrator/'' is inserted in front of ''State Director.'' The head of each FMCSA State office is the Division Administrator. The Agency, however, has one remaining State Director, in the Puerto Rico Division.

Section 350.335(e). Paragraph (e) is amended by removing the words ''Research and Special Programs Administration'' and adding, in their place, the words ''Pipeline and Hazardous Materials Safety Administration.'' This change is required to reflect the current name of the agency with the statutory authority to regulate the transportation of hazardous materials.

Section 375.103. This section is amended to provide a more up-to-date definition for the word ''Advertisement.''

Section 375.209(b). The paragraph is amended to reflect that there are three, not four, elements that must be included in a household goods motor carrier's procedure for handling complaints and inquiries.

Part 379 Appendix A. Appendix A to Part 379 is amended to remove references to ''water carriage'', which is outside of FMCSA's authority.

Section 382.107. Under the definition of ''commercial motor vehicle,'' the phrase ''or gross combination weight'' is added in paragraph (1) following the phrase ''gross combination weight rating''. The phrase ''whichever is greater'' is added after the parenthetical ''(26,001 pounds or more)''. In paragraph (2); the phrase ''or gross vehicle weight'' is added after the phrase ''gross vehicle weight rating'', and the phrase ''whichever is greater'' is inserted following the parenthetical ''(26,001 or more pounds).'' These changes are intended to make the definition consistent with the definition of commercial motor vehicle in 49 U.S.C. 31301(4) and 49 CFR 383.5.

Section 383.51. In paragraph (b), the phrase ''required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F)'' in the 4th column header in Table 1 is replaced with ''as defined in § 383.5'' to cover the expanded definition of ''hazardous materials'', contained in the USA PATRIOT Act, which now includes select agents and toxins under 42 CFR part 73. In paragraph (c)(1), the phrase ''regulated or'' is inserted before ''posted'' in the first column because the current description in the table does not reflect the regulatory language. In paragraphs (b)(7), (c)(6), (c)(7), and (c)(8), the phrase ''CLP or'' is inserted before the abbreviation ''CDL'' to conform the column headers in Tables 1 and 2 to § 383.51. In paragraph (c)(9), the phrase ''a CMV'' is inserted after the word ''driving'' to conform to the wording in § 383.51(c)(10) and clarify that disqualification does not occur unless the offense is committed in a commercial motor vehicle (CMV).

In paragraph (e)(2), Table 4, the phrase ''required to be placarded under part 172 subpart F of this title'' is replaced with ''as defined in § 383.5'' to reflect the expanded definition of ''hazardous materials'' in the USA PATRIOT Act, which now includes select agents and toxins under 42 CFR part 73.

Section 383.71. Paragraph (b)(1)(i) is removed because it is now obsolete, and paragraph (b)(1)(ii) is redesignated as paragraph (b)(1). In paragraph (h)(2), the reference to § 383.73(j)(4) is changed to § 383.73(o)(4) to correct an inadvertent error in the Commercial Driver's License Testing and Commercial Learner's Permit Standards final rule (77 FR 26989; May 8, 2012).

Section 383.91(a)(3). The phrase ''materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart E)'' is replaced with ''hazardous materials as defined in § 383.5'' to reflect the expanded definition of ''hazardous materials'' in the USA PATRIOT Act, which now includes select agents and toxins under 42 CFR part 73.

Section 383.141(a). The phrase ''Beginning on the date(s) listed in 49 CFR 1572.13(b)'' is removed because the dates in the referenced paragraph have been removed.

Section 384.215(b). The phrase ''required to be placarded under the Hazardous Materials Transportation Act (implementing regulations at 49 CFR 177.823)'' is replaced with ''as defined in § 383.5'' to reflect the expanded definition of ''hazardous materials'' in the USA PATRIOT Act, which now includes select agents and toxins under 42 CFR part 73.

Section 385.4. Section 385.4 is revised to conform with Office of the Federal Register style. The address and telephone number for the Commercial Vehicle Safety Alliance (CVSA) are

updated and a cross reference to § 385.415(b)(1) is added.

Section 385.19(b). As authorized by sec. 32932 of MAP–21, both the phrase ''Interstate Commerce Commission'' and the acronym designation ''(ICCMC)'' are deleted.

Section 385.403(d). Paragraph (d) is revised to reference ''A 'material poisonous by inhalation,' in 'bulk packaging,' both as defined in § 171.8 of this title, that meets the criteria for 'hazard zone B,' as specified in § 173.116(a) or § 173.133(a)''. This change takes into account the quantities for solids and gases contained in the ''Bulk Packaging'' definition.

Section 385.407(c). The reference to ''Research and Special Programs Administration'' is replaced with ''Pipeline and Hazardous Materials Safety Administration'' to reflect the name of the current modal administration with the responsibility to protect people and the environment from the risks inherent in the transportation of hazardous materials by pipeline and other modes of transportation.

Section 385.415(b)(1). Pursuant to an approval by the Director of the Office of the Federal Register, an incorporation by reference of the old edition (January 1, 2004 version) of the ''North American Standard Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403'' is amended by removing the edition date ''January 1, 2004'' and replacing it with the new edition date of ''April 1, 2012''. The reference to materials incorporated by reference and the address of the Commercial Vehicle Safety Alliance are replaced with a reference to § 385.4 that reads: ''(See § 385.4 for information on incorporation by reference and availability of this document.)''.

Appendix B to Part 385. Section II is changed to add approximately 180 of the part 172 and part 173 violation to ASPEN [1] and the Motor Carrier Management Information System (MCMIS).[2] This was done in those instances where the Agency observes private carriers, because the parts 172/173 violations are shipper/offeror related.

Section 386.5(f). This paragraph is revised by reversing the references to § 386.6 and § 386.7 because § 386.6 refers to service and § 386.7 refers to filing.

Section 386.82(a)(2). The current citation to ''§ 386.11(b)(3)'' is changed to ''§ 386.11(c)(3)'' because the ''notice to post'' provision, provided for in 49 U.S.C. 521(b)(3), is contained in the latter paragraph.

Section 387.303. FMCSA amends § 387.303 by restoring a previously removed provision that established minimum public liability limits of $300,000 for fleets that consist only of vehicles with Gross Vehicle Weight Ratings (GVWRs) of under 10,000 pounds, except that FMCSA revises 10,000 pounds to 10,001 pounds to be consistent with the statutory definition of CMV. The Agency removed former 49 CFR 387.303(b)(1)(i) in 2007 because section 4120 of SAFETEA–LU removed FMCSA's commercial jurisdiction over for-hire transportation of property in motor vehicles that did not meet the definition of a CMV under 49 U.S.C. 31132. However, the SAFETEA–LU Technical Corrections Act of 2008 restored the Agency's commercial jurisdiction over for-hire transportation of property in non-CMVs, so the Agency reinstates this regulatory provision. This section is also revised to remove obsolete references to effective dates in the table in § 387.303(b)(2).

Section 390.21(b)(5). This paragraph is removed because the referenced compliance provisions are now unnecessary since they have all been satisfied.

Section 390.27. This section is revised to reflect the address change resulting from the recent move of the Midwestern Service Center. Also, because Texas is now included in the Western Service Center, note 2 has been revised to reflect that change.

Section 390.42(b). The reference to ''§ 396.11(a)(2)'' is revised to read ''§ 396.11(b)(2)'' to correct a typographical error.

Section 393.17(b). Paragraph (b) is changed to correct a typographical error.

Section 393.52. The source note for this section is revised to read, ''67 FR 51777'', rather than ''68 FR 51777'', to correct a typographical error.

Section 393.77(b)(13). The reference to ''(c)(14)'' is replaced with ''(b)(14)'' to correct an error.

Section 395.8(a)(1). The last sentence in the paragraph is deleted to remove a reference to obsolete forms.

Section 396.11(b)(4). This paragraph is revised to delete the phrase ''including the original driver report, the certification of repairs on all intermodal equipment,'' and replacing it with the phrase ''including the original driver report and the certification of repairs on all intermodal equipment,'' to correct a typographical error.

Section 397.5(d)(3). The word ''in'' is replaced with the word ''is'' to correct a typographical error.

Section 397.19(a)(3). The word ''contracted'' is replaced with the word ''contacted'' to correct a typographical error.

Section 397.101. In paragraphs (b) [introductory text], (b)(2), and (d), references to 49 CFR 173.403 are corrected to remove incorrect paragraph references.

Section 398.5(d). A space is inserted between the word ''means'' and the word ''shall'' in the fourth sentence to correct a typographical error.

Appendix B to Subchapter B of Chapter III. In Appendix B, references to ''49 CFR 1.73'' are changed to ''49 CFR 1.87'' to reflect the recent reorganization of 49 CFR part 1 by the DOT.

Appendix G to Subchapter B of Chapter III. When the new brake adjustment rule titled, ''Parts and Accessories Necessary for Safe Operation; Brakes; Adjustment Limits'' was published on August 6, 2012 (77 FR 46633, at 46640), the final sentence of paragraph 1(a)(5) that reads ''Wedge Brake Data—Movement of the scribe mark on the lining shall not exceed 1/16 inch.'' was inadvertently moved from the new section 1.a(5) and currently is set forth by itself below a set of tables. This change relocates the one-sentence provision to the final sentence in paragraph 1.a(5), thus ensuring its visibility.

IV. Rulemaking Analyses

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as supplemented by Executive Order 13563 (76 FR 3821, January 18, 2011), or within the meaning of the DOT regulatory policies and procedures (44 FR 1103, February 26, 1979). The Office of Management and Budget (OMB) did not review this document. We expect the final rule will have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–

[1] Aspen is an application that collects all the commercial driver/vehicle roadside inspection details. It utilizes several other applications that pulls data from remote sources—ISS, PIQ, CDLIS Access, and QC. It also includes communication features to electronically transfer inspection details to SAFER and/or SAFETYNET.

[2] MCMIS is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. MCMIS utilizes an Oracle database with a web front-end access. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

612), FMCSA has evaluated the effects of this rule on small entities. Because the rule only makes minor editorial corrections and places no new requirements on the regulated industry, FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

The final rule will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $140.8 million (which is the value of $100 million in 2009 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

This rulemaking would not preempt or modify any provision of State law, impose substantial direct unreimbursed compliance costs on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications warranting the application of E.O. 13132.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no new information collection requirements are associated with this final rule.

National Environmental Policy Act

FMCSA analyzed this final rule for the purpose of ascertaining the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our Environmental Procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action would not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded from further analysis and documentation under the Categorical Exclusion (CE) in paragraph 6(b) of Appendix 2 of FMCSA Order 5610.1. This CE addresses minor editorial corrections such as found in this rulemaking; therefore preparation of an environmental assessment or environmental impact statement is not necessary.

The FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it will have no effect on the environment.

E.O. 12898 (Environmental Justice)

This technical amendment final rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994). Executive Order 12898 establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, 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. FMCSA determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not change the substance of any of the FMCSRs.

E.O. 13211 (Energy Effects)

FMCSA has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that Executive Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, no Statement of Energy Effects is required.

E.O. 13045 (Protection of Children)

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. As discussed previously, this rule is not economically significant. Therefore, no analysis of the impacts on children is required.

E.O. 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 12630 (Taking of Private Property)

This rule will not affect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies proposing to adopt technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. Because FMCSA does not intend to adopt technical standards, there is no need to submit a separate statement to OMB on this matter.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, Division H, Title I, 118 Stat. 2809 at 3268, Dec. 8, 2004) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each rule that will affect the privacy of individuals. Because this final rule will not affect the privacy of individuals, FMCSA did not conduct a separate privacy impact assessment.

List of Subjects

49 CFR Part 303

Civil rights procedures and practices.

49 CFR Part 325

Motor carriers, Noise control.

49 CFR Part 350

Grant programs—transportation, Highway safety, Motor carriers, Motor

vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 355

Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 356

Administrative practice and procedure, Freight forwarders, Highways and roads, Motor carriers.

49 CFR Part 360

Administrative practice and procedure, Insurance, Motor carriers.

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Maritime carriers, Mexico, Motor carriers, Moving of household goods.

49 CFR Part 366

Brokers, Motor carriers.

49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

49 CFR Part 368

Administrative practice and procedure, Mexico, Motor carriers.

49 CFR Part 369

Reporting and recordkeeping requirements.

49 CFR Part 370

Freight forwarders, Investigations, Motor carriers.

49 CFR Part 371

Brokers, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 372

Agricultural commodities, Buses, Cooperatives, Freight forwarders, Motor carriers, Moving of household goods, Seafood.

49 CFR Part 373

Buses, Freight, Freight forwarders, Motor carriers, Moving of household goods.

49 CFR Part 374

Aged, Blind, Buses, Civil rights, Freight, Individuals with disabilities, Motor carriers, Smoking.

49 CFR Part 375

Advertising, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 376

Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 377

Credit, Freight forwarders, Maritime carriers, Motor carriers. Moving of household goods.

49 CFR Part 378

Freight forwarders, Investigations, Motor carriers, Moving of household goods.

49 CFR Part 379

Freight forwarders, Maritime carriers, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 380

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 381

Motor carriers.

49 CFR Part 382

Administrative practice and procedure, Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Penalties, Safety, Transportation.

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety and motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 385

Administrative practice and procedure, Highway safety, Incorporation by reference. Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

49 CFR Part 387

Buses, Freight, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Intergovernmental relations, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

49 CFR Part 388

Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle safety.

49 CFR Part 389

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 392

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 397

Administrative practice and procedure, Highway safety, Intergovernmental relations, Motor carriers, Parking, Radioactive materials, Reporting and recordkeeping requirements, Tires.

49 CFR Part 398

Highway safety, Migrant labor, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 399

Motor carriers; Motor vehicle safety; Occupational safety and health.

In consideration of the foregoing, FMCSA is amending 49 CFR chapter III, parts 303, 325, 350, 355, 356, 360, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, 396, 397, 398, and 399; and appendices B and G to subchapter B, as set forth below:

PART 303—CIVIL RIGHTS

■ 1. The authority citation for part 303 is revised to read as follows:

Authority: Public Law 105–159, 113 Stat. 1748, Title I, sections 107(a) and 106 (Dec. 9, 1999) (49 U.S.C. 113); 42 U.S.C. 2000d, *et seq.;* and 49 CFR 1.87.

PART 325—COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

■ 2. The authority citation for part 325 is revised to read as follows:

Authority: 42 U.S.C. 4917; 49 U.S.C. 301; 49 CFR 1.87.

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

■ 3. The authority citation for part 350 is revised to read as follows:

Authority: 49 U.S.C. 13902, 31101–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.87.

§ 350.105 [Amended]

■ 4. Amend § 350.105 by removing the definition for ''Border Activity Funds.''

§ 350.205 [Amended]

■ 5. Amend § 350.205(a) by removing the words ''Motor Carrier'' and adding, in their place, the words ''Division Administrator/''.

§ 350.213 [Amended]

■ 6. Amend § 350.213 by removing paragraph (o) and redesignating paragraphs (p), (q), and (r) as paragraphs (o), (p), and (q), respectively.

§ 350.313 [Amended]

■ 7. Amend § 350.313 by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

§ 350.327 [Amended]

■ 8. Remove § 350.327(f).

■ 9. Revise the heading of § 350.329 to read as follows:

§ 350.329 How may a State or local agency qualify for High Priority Funds?

* * * * *

§ 350.331 [Amended]

■ 10. Amend § 350.331(b) by removing the words ''Motor Carrier'' and adding, in their place, the words ''Division Administrator/''.

§ 350.335 [Amended]

■ 11. Amend § 350.335(e) by removing the words ''Research and Special Programs Administration'' and adding, in their place, the words ''Pipeline and Hazardous Materials Safety Administration''.

PART 355—COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS

■ 12. The authority citation for part 355 is revised to read as follows:

Authority: 49 U.S.C. 504 and 31101 *et seq.;* 49 CFR 1.87.

PART 356—MOTOR CARRIER ROUTING REGULATIONS

■ 13. The authority citation for part 356 is revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 13902; and 49 CFR 1.87.

PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE

■ 14. The authority citation for part 360 is revised to read as follows:

Authority: 31 U.S.C. 9701; 49 U.S.C. 13908(c) and 14504(c)(2); and 49 CFR 1.87.

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

■ 15. The authority citation for part 365 is revised to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.87.

PART 366—DESIGNATION OF PROCESS AGENT

16. The authority citation for part 366 is revised to read as follows:

Authority: 49 U.S.C. 13303, 13304, and 14704; and 49 CFR 1.87.

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 17. The authority citation for part 367 is revised to read as follows:

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

PART 368—APPLICATION FOR A CERTIFICATE OF REGISTRATION TO OPERATE IN MUNICIPALITIES IN THE UNITED STATES ON THE UNITED STATES-MEXICO INTERNATIONAL BORDER OR WITHIN THE COMMERCIAL ZONES OF SUCH MUNICIPALITIES

■ 18. The authority citation for part 368 is revised to read as follows:

Authority: 49 U.S.C. 13301 and 13902; Pub. L. 106–159, 113 Stat. 1748; and 49 CFR 1.87.

PART 369—REPORTS OF MOTOR CARRIERS

■ 19. The authority citation for part 369 is revised to read as follows:

Authority: 49 U.S.C. 14123; 49 CFR 1.87.

PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

■ 20. The authority citation for part 370 is revised to read as follows:

Authority: 49 U.S.C. 13301 and 14706; and 49 CFR 1.87.

PART 371—BROKERS OF PROPERTY

■ 21. The authority citation for part 371 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13501, and 14122; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.87.

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

■ 22. The authority citation for part 372 is revised to read as follows:

Authority: 49 U.S.C. 13504 and 13506; and 49 CFR 1.87.

PART 373—RECEIPTS AND BILLS

■ 23. The authority citation for part 373 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13531 and 14706; and 49 CFR 1.87.

PART 374—PASSENGER CARRIER REGULATIONS

■ 24. The authority citation for part 374 is revised to read as follows:

Authority: 49 U.S.C. 13301 and 14101; and 49 CFR 1.87.

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS

■ 25. The authority citation for part 375 is revised to read as follows:

Authority: 49 U.S.C. 13102, 13301, 13501, 13704, 13707, 13902, 14104, 14706, 14708; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.87.

■ 26. Amend § 375.103 by revising the definition for ''Advertisement'' to read as follows:

§ 375.103 What are the definitions of terms used in this part?

* * * * *

Advertisement means any communication to the public in

connection with an offer or sale of any interstate household goods transportation service. This includes written or electronic database listings of your name, address, and telephone number in an on-line database or displayed on an Internet web site. This excludes listings of your name, address, and telephone number in a telephone directory or similar publication. However, Yellow Pages advertising is included in the definition.

* * * * *

§ 375.209 [Amended]

■ 27. Amend § 375.209(b) introductory text by removing the word ''four'' and replacing it with ''three''.

■ 28. Amend Appendix A to Part 375 by revising the authority, which is the third phrase under the heading, to read as follows:

Appendix A to Part 375—Your Rights and Responsibilities When You Move

* * * * *

Authority: 49 U.S.C. 13301, 13704, 13707, and 14104; 49 CFR 1.87.

* * * * *

PART 376—LEASE AND INTERCHANGE OF VEHICLES

■ 29. The authority citation for part 376 is revised to read as follows:

Authority: 49 U.S.C. 13301 and 14102; and 49 CFR 1.87.

PART 377—PAYMENT OF TRANSPORTATION CHARGES

■ 30. The authority citation for part 377 is revised to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701, 13702, 13706, 13707, and 14101; and 49 CFR 1.87.

PART 378—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

■ 31. The authority citation for part 378 is revised to read as follows:

Authority: 49 U.S.C. 13321, 14101, 14704 and 14705; and 49 CFR 1.87.

PART 379—PRESERVATION OF RECORDS

■ 32. The authority citation for part 379 is revised to read as follows:

Authority: 49 U.S.C. 13301, 14122 and 14123; and 49 CFR 1.87.

■ 33. Amend Appendix A to Part 379 as follows:

■ a. In the section under centerhead ''A. Corporate and General,'' revise number 3;

■ b. In the section under centerhead ''I. Shipping and Agency Documents,'' revise number 5;

■ c. Revise the section under the centerhead ''J. Transportation;''

■ d. In the section under the centerhead ''K. Supporting Data for Reports and Statistics,'' revise number 2.

Appendix A to Part 379—Schedule of Records and Periods of Retention

Item and category of records	Retention period
A. Corporate and General	
* * * * * * *	
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation.
(b) Operating authorizations and exemptions to operate	Until expiration or cancellation.
(c) Copies of formal orders of regulatory bodies served upon the company	Note A.
(d) Deeds, charters, and other title papers	Until disposition of property.
* * * * * * *	
I. Shipping and Agency Documents	
* * * * * * *	
5. Agency records:	
(a) Cash books	1 year.
(b) Remittance records, bank deposit slips and supporting papers	1 year.
(c) Balance sheets and supporting papers	1 year.
(d) Statements of corrections in agents' accounts	1 year.
(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc..	1 year.
J. Transportation	
1. Records pertaining to transportation of household goods:	
(a) Estimate of charges	1 year.
(b) Order for service	1 year.
(c) Vehicle load manifest	1 year.
(d) Descriptive inventory	1 year.
2. Dispatchers' sheets, registers, and other records pertaining to movement of transportation equipment	3 years.
3. Import and export records including bonded freight	2 years.
4. Records, reports, orders and tickets pertaining to weighting of freight	3 years.
5. Records of loading and unloading of transportation equipment	2 years.
6. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence	2 years.
7. Other	Note A.

Item and category of records	Retention period
K. Supporting Data for Reports and Statistics	
* * * * * * *	
2. Supporting data for periodical reports of accidents, inspections, tests, hours of service, repairs, etc.	6 months.
* * * * * * *	

* * * * *

PART 380—SPECIAL TRAINING REQUIREMENTS

■ 34. The authority citation for part 380 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31307, and 31502; sec. 4007(a) and (b) of Pub. L. 102–240 (105 Stat. 2151–2152); and 49 CFR 1.87.

PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

■ 35. The authority citation for part 381 is revised to read as follows:

Authority: 49 U.S.C. 31136(e) and 31315; and 49 CFR 1.87.

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

■ 36. The authority citation for part 382 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31301, *et seq.,* 31502; and 49 CFR 1.87.

■ 37. Amend § 382.107 by revising the introductory text and paragraphs (1) and (2) of the definition of ''commercial motor vehicle'' to read as follows:

§ 382.107 Definitions.

* * * * *

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle

(1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

(2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or

* * * * *

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 38. The authority citation for part 383 is revised to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.,* and 31502; secs. 214 and 215, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 4140, Pub. L. 109–59, 119 Stat. 1144, 1746; and 49 CFR 1.87.

§ 383.51 [Amended]

■ 39. Amend § 383.51 as follows:

■ a. Amend paragraph (b), Table 1, by removing the words ''required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F)'' in the fourth column header and adding, in their place, the words ''as defined in § 383.5''; and by adding the phrase ''CLP or'' before the word ''CDL'' to paragraph (b)(7) in the first column.

■ b. Amend paragraph (c), Table 2, by adding the phrase ''regulated or'' before the word ''posted'' in paragraph (c)(1) in the first column; by adding the phrase ''CLP or'' before the word ''CDL'' in paragraphs (c)(6), (c)(7), and (c)(8) in the first column; and by adding the phrase ''a CMV'' after the word ''driving'' in paragraph (c)(9) in the first column;

■ c. Amend paragraph (e)(2), Table 4, by removing the words ''required to be placarded under part 172, subpart F of this title'' in the first column and adding, in their place, the words ''as defined in § 383.5.''

§ 383.71 [Amended]

■ 40. Amend § 383.71 as follows:

■ a. Remove paragraph (b)(1)(i) and redesignate paragraph (b)(1)(ii) as (b)(1). In redesignated paragraph (b)(1), further redesignate paragraphs (A) through (D) as (b)(1)((i) through (iv).

■ b. In paragraph (h)(2), remove the citation to ''section 383.73(j)(4)'' and add, in its place, the citation ''§ 383.73(o)(4).''

§ 383.91 [Amended]

■ 41. Amend § 383.91(a)(3) by removing the words ''materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F)'' and add, in their place, the words ''hazardous materials as defined in § 383.5''.

■ 42. Revise § 383.141(a) to read as follows:

§ 383.141 General

(a) *Applicability.* This section applies to State agencies responsible for issuing hazardous materials endorsements for a CDL, and applicants for such endorsements.

* * * * *

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 43. The authority citation for part 384 is revised to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.,* and 31502; secs. 103 and 215, Pub. L. 106–159, 113 Stat. 1753, 1767; and 49 CFR 1.87.

§ 384.215 [Amended]

■ 44. Amend § 384.215(b) by removing the words ''required to be placarded under the Hazardous Materials Transportation Act (implementing regulations at 49 CFR 177.823)'' and adding, in their place, the words ''as defined in § 383.5''.

PART 385—SAFETY FITNESS PROCEDURES

■ 45. The authority citation for part 385 is revised to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 31136, 31144, 31148, and 31502; Sec. 350, Pub. L. 107–87; and 49 CFR 1.87.

■ 46. Revise § 385.4 to read as follows:

§ 385.4 Matter incorporated by reference.

(a) *Incorporation by reference.* Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, FMCSA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at

Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave. SE., Washington, DC 20590–0001; Attention: Mr. Thomas Kelly at 202–366–1812, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Commercial Vehicle Safety Alliance, 603 Ivy Lane, Suite 310, Greenbelt, Maryland 20770–6319. Phone number (301) 830–6143

(1) ''North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403,'' April 1, 2012; approved for § 385.415(b).

(2) [Reserved]

§ 385.19 [Amended]

■ 47. Amend § 385.19(b) by removing the acronym designation ''(ICCMC).''

■ 48. Revise § 385.403(d) to read as follows:

§ 385.403 Who must hold a safety permit?

* * * * *

(d) A ''material poisonous by inhalation,'' in a ''bulk packaging,'' both as defined in § 171.8 of this title, that meets the criteria for ''hazard zone B,'' as specified in § 173.116(a) or § 173.133(a);

* * * * *

■ 49. Revise § 385.407(c) to read as follows:

§ 385.407 What conditions must a motor carrier satisfy for FMCSA to issue a safety permit?

* * * * *

(c) *Registration with the Pipeline and Hazardous Materials Safety Administration (PHMSA).* The motor carrier must be registered with PHMSA in accordance with part 107, subpart G of this title.

■ 50. Revise § 385.415(b)(1) to read as follows:

§ 385.415 What operational requirements apply to the transportation of a hazardous material for which a permit is required?

* * * * *

(b)(1) Inspection of vehicle transporting Class 7 (radioactive) materials. Before a motor carrier may transport a highway route controlled quantity of a Class 7 (radioactive) material, the motor carrier must have a pre-trip inspection performed on each motor vehicle to be used to transport a highway route controlled quantity of a Class 7 (radioactive) material, in accordance with the requirements of the ''North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403'', (incorporated by reference, see § 385.4).

* * * * *

■ 51. Amend Appendix B to part 385 by revising section II.(f) to read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

II. * * *

(f) The regulatory factors, evaluated on the basis of the adequacy of the carrier's safety management controls, are: (1) Parts 172 and 173; (2) Parts 387 and 390; (3) Parts 382, 383, and 391; (4) Parts 392 and 395; (5) Parts 393 and 396 when there are less than three vehicle inspections in the last 12 months to evaluate; and (6) Parts 397, 171, 177 and 180.

* * * * *

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

■ 52. The authority citation for part 386 is revised to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; Sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); Sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; Sec. 206, Pub. L. 106–159, 113 Stat. 1763; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.81 and 1.87.

■ 53. Amend § 386.5(f) by revising the next to last sentence to read as follows:

§ 386.5 Form of filings and extensions of time.

* * * * *

(f) * * * Motions for extensions of time must be filed in accordance with § 386.7 and served in accordance with § 386.6. * * *

§ 386.82 [Amended]

■ 54. Amend § 386.82(a)(2) by removing the citation to ''§ 386.11(b)(3)'' and adding, in its place, the citation ''§ 386.11(c)(3).''

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

■ 55. The authority citation for part 387 is revised to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, 31139, and 31144; and 49 CFR 1.87.

■ 56. Amend § 387.303 by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 387.303 Security for the protection of the public: Minimum limits.

* * * * *

(b)(1) Motor carriers subject to § 387.301(a)(1) are required to have security for the required minimum limits as follows:

(i) *Small freight vehicles:*

Kind of equipment	Transportation provided	Minimum limits
Fleet including only vehicles under 10,001 pounds (4,536 kilograms) GVWR	Property (non-hazardous)	$300,000

(ii) *Passenger carriers.*

PASSENGER CARRIERS: KIND OF EQUIPMENT

Vehicle seating capacity	Minimum limits
(A) Any vehicle with a seating capacity of 16 passengers or more (including the driver)	$5,000,000

PASSENGER CARRIERS: KIND OF EQUIPMENT—Continued

Vehicle seating capacity	Minimum limits
(B) Any vehicle designed or used to transport 15 passengers or less (including the driver) for compensation	1,500,000

(2) Motor carriers subject to § 387.301(a)(2) are required to have security for the required minimum limits as follows:

Kind of equipment	Commodity transported	Minimum limits
(i) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR.	Property (non-hazardous)	$750,000
(ii) Freight vehicles of 10,001 (4,536 kilograms) pounds or more GVWR.	Hazardous substances, as defined in § 171.8 of this title, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons, or in bulk explosives Division 1,1, 1.2 and 1.3 materials. Division 2.3, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in § 173.403 of this title.	5,000,000
(iii) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR.	Oil listed in § 172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in § 171.8 of this title and listed in § 172.101 of this title, but not mentioned in (b) above or (d) below.	1,000,000
(iv) Freight vehicles under 10,001 pounds (4,536 kilograms) GVWR.	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of Class 7 material as defined in § 173.455 of this title.	5,000,000

* * * * *

PART 388—COOPERATIVE AGREEMENTS WITH STATES

■ 57. The authority citation for part 388 is revised to read as follows:

Authority: 49 U.S.C. 113 and 502; 49 CFR 1.87.

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

■ 58. The authority citation for part 389 is revised to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.,* subchapters I and III of chapter 311, chapter 313, and 31502; 42 U.S.C. 4917; and 49 CFR 1.87.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 59. The authority citation for part 390 is revised to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31136, 31144, 31151 and 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677–1678; secs. 212 and 217, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744); sec. 4136, Pub. L. 109–59, 119 Stat. 1144, 1745; and 49 CFR 1.87.

§ 390.21 [Amended]

■ 60. Amend § 390.21 by removing paragraph (b)(5).

■ 61. Revise § 390.27 to read as follows:

§ 390.27 Locations of motor carrier safety service centers.

Service center	Territory included	Location of office
Eastern	CT, DC, DE, MA, MD, ME, NJ, NH, NY, PA, PR, RI, VA, VT, Virgin Islands, WV.	802 Cromwell Park Drive, Suite N, Glen Burnie, MD 21061.
Midwestern	IA, IL, IN, KS, MI, MO, MN NE., OH, WI	4749 Lincoln Mall Drive, Suite 300A, Matteson, IL 60443.
Southern	AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN	1800 Century Boulevard, Suite 1700, Atlanta, GA 30345–3220.
Western	American Samoa, AK, AZ, CA, CO, Guam, HI, ID, Mariana Islands, MT, ND, NM, NV, OR, SD, TX, UT, WA, WY.	Golden Hills Office Centre, 12600 West Colfax Avenue, Suite B–300, Lakewood, CO 80215.

Note 1: Canadian carriers, for information regarding proper service center, contact an FMCSA division (State) office in AK, ME, MI, MT, NY, ND, VT, or WA.

Note 2: Mexican carriers are handled through the four southern border divisions and the Western Service Center. For information regarding the proper service center, contact an FMCSA division (State) office in AZ, CA, NM, or TX.

§ 390.42 [Amended]

■ 62. Amend § 390.42(b) by removing the phrase ''in § 396.11(a)(2)'' and adding in its place ''in § 396.11(b)(2).''

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

■ 63. The authority citation for part 391 is revised to read as follows:

Authority: 49 U.S.C. 504, 508, 31133, 31136, and 31502; sec. 4007(b) of Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114 of Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215 of Pub. L. 106–159, 113 Stat. 1748, 1767; and 49 CFR 1.87.

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

■ 64. The authority citation for part 392 is revised to read as follows:

Authority: 49 U.S.C. 504, 13902, 31136, 31151, 31502; and 49 CFR 1.87.

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

■ 65. The authority citation for part 393 is revised to read as follows:

Authority: 49 U.S.C. 31136, 31151, and 31502; sec. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.87.

§ 393.17 [Amended]

■ 66. Amend § 393.17 in the introductory text of paragraph (b) by removing the phrase ''including the towed vehicle or a tow-bar combination,'' and adding in its place ''including the towed vehicles of a tow-bar combination.''

§ 393.77 [Amended]

■ 67–68. Amend § 393.77–(b)(13) by removing the phrase ''paragraph (c)(14)'' in the first sentence and adding in its place the phrase ''paragraph (b)(14).''

PART 395—HOURS OF SERVICE OF DRIVERS

■ 69. The authority citation for part 395 is revised to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31137, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110–432, 122 Stat. 4860–4866; and 49 CFR 1.87.

■ 70. Revise § 395.8(a)(1) to read as follows:

§ 395.8 Driver's record of duty status.

(a) * * *

(1) Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company forms.

* * * * *

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

■ 71. The authority citation for part 396 is revised to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31151, and 31502; and 49 CFR 1.87.

§ 396.11 [Amended]

■ 72. Amend § 396.11(b)(4) by removing the phrase ''including the original driver report, the certification of repairs on all intermodal equipment,'' and adding in its place the phrase ''including the original driver report and the certification of repairs on all intermodal equipment,''.

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

■ 73. The authority citation for part 397 is revised to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.87. Subpart A also issued under 49 U.S.C. 5103, 31136, 31502, and 49 CFR 1.97. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

■ 74. Revise § 397.5–(d)(3) to read as follows:

§ 397.5 Attendance and surveillance of motor vehicles.

* * * * *

(d) * * *

(3) A safe haven is an area specifically approved in writing by local, State, or Federal governmental authorities for the parking of unattended vehicles containing Division 1.1, 1.2, or 1.3 materials.

* * * * *

§ 397.19 [Amended]

■ 75. Amend § 397.19(a)(3) by removing the word ''contracted'' in the second sentence and adding in its place the word ''contacted.''

§ 397.101 [Amended]

■ 76. In the table below, for each paragraph of § 397.101 indicated in the left column, remove the words indicated in the middle column and add the words indicated in the right column in their place.

Paragraph	Remove	Add
§ 397.101(b) introductory text	49 CFR 173.403(l)	49 CFR 173.403.
§ 397.101(b)(2)	49 CFR 173.403(l) and (y)	49 CFR 173.403.
§ 397.101(d) introductory text	49 CFR 173.403(l), shall prepared	49 CFR 173.403, shall prepare.
§ 397.101(d) introductory text	49 CFR 173.403(i)	49 CFR 173.403.

PART 398—TRANSPORTATION OF MIGRANT WORKERS

■ 77. The authority citation for part 398 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); sec. 212, Pub. L. 106–159, 113 Stat. 1748, 1766; and 49 CFR 1.87.

§ 398.5 [Amended]

■ 78. Amend § 398.5(d) by adding a space between the word ''means'' and the word ''shall'' in the fourth sentence following the paragraph heading.

PART 399—EMPLOYEE SAFETY AND HEALTH STANDARDS

■ 79. The authority citation for part 399 is revised to read as follows:

Authority: 49 U.S.C. 31502; and 49 CFR 1.87.

Appendix B to Subchapter B of Chapter III [Amended]

■ 80. Amend Appendix B to Subchapter B of Chapter III as follows:

■ a. Amend paragraph 3, Definition of Special Agent, by removing the citation to ''49 CFR 1.73'' and adding in its place the citation ''49 CFR 1.87.''

■ b. Amend the authority citation for Appendix B to Subchapter B of Chapter III by removing the citation to ''49 CFR 1.73'' and adding in its place the citation ''49 CFR 1.87.''

Appendix G to Subchapter B of Chapter III [Amended]

■ 81. Amend section 1.a(5) of Appendix G, Subchapter B of Chapter III by adding a paragraph to the end of paragraph a. *Service brakes* and before paragraph b. *Parking Brake System* to read as follows:

Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards

* * * * *

Wedge Brake Data—Movement of the scribe mark on the lining shall not exceed 1/16 inch.

* * * * *

Issued on: September 10, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–23758 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA–2012–0120]

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is published in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2010, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: This rule is effective on October 1, 2012.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, (202) 366–5308.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made ''on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)].'' The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notices of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242–43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Regulatory Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations about whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This rule will not have any of these effects and was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. The effect of this rule is not to impose new requirements. Instead it provides a summary compilation of decisions on import eligibility that have already been made and does not involve new decisions. This rule will not impose any additional burden on any person. Accordingly, the agency believes that the preparation of a regulatory evaluation is not warranted for this rule.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this rule under the National Environmental Policy Act. This rule does not impose any change that would result in any impacts to the quality of the human environment. Accordingly, no environmental assessment is required.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rule on small entities (5 U.S.C. 601 *et seq.*). I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). This rule will not have any significant economic impact on a substantial number of small businesses because the rule merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have previously been made. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

D. Executive Order 13132, Federalism

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' Executive Order 13132 defines the term ''Policies that have federalism implications'' to include regulations 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.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the regulation.

This rule will have no 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 as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule will not result in additional expenditures by State, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. DOT previously submitted to OMB and OMB approved the collection of information associated with the vehicle importation program in OMB Clearance No. 2127–0002.

G. Civil Justice Reform

Pursuant to Executive Order 12988, ''Civil Justice Reform,'' we have considered whether this rule has any retroactive effect. We conclude that it will not have such an effect.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?

—Are the requirements in the rule clearly stated?

—Does the rule contain technical language or jargon that is not clear?

—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the rule easier to understand?

If you wish to do so, please comment on the extent to which this final rule effectively uses plain language principles.

I. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.''

This rule does not require the use of any technical standards.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

K. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to Executive Order 13045 because it is not ''economically significant'' as defined under Executive Order 12866, and does not concern an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

L. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this action does not impose any regulatory requirements. This rule merely revises the list of vehicles not originally manufactured to conform to the FMVSS that NHTSA has decided to be eligible for importation into the United States since the last list was published in September, 2010.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next edition of 49 CFR parts 572 to 599, which is due for revision on October 1, 2011, good cause exists to dispense with the requirement in 5 U.S.C. 553(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, Part 593 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 593—[AMENDED]

■ 1. The authority citation for Part 593 is revised to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.95.

■ 2. Appendix A to Part 593 is revised to read as follows:

Appendix A to Part 593—List of Vehicles Determined To Be Eligible for Importation

(a) Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS–7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

(1) ''VSA'' eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under § 593.8.

(2) ''VSP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(1), which

establishes that a substantially similar U.S.-certified vehicle exists.

(3) ''VCP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

(b) Vehicles for which eligibility decisions have been made are listed alphabetically, first by make and then by model.

(c) All hyphens used in the Model Year column mean ''through'' (for example, ''1989–1991'' means ''1989 through 1991'').

(d) The initials ''MC'' used in the Make column mean ''Motorcycle.''

(e) The initials ''SWB'' used in the Model Type column mean ''Short Wheel Base.''

(f) The initials ''LWB'' used in the Model Type column mean ''Long Wheel Base.''

(g) For vehicles with a European country of origin, the term ''Model Year'' ordinarily means calendar year in which the vehicle was produced.

(h) All vehicles are left-hand-drive (LHD) vehicles unless noted as RHD. The initials ''RHD'' used in the Model Type column mean ''Right-Hand-Drive.''

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

	(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989; (b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208; (c) All passenger cars manufactured on or after September 1, 1996, and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS No. 214; (d) All passenger cars manufactured on or after September 1, 2002, and before September 1, 2007, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS Nos. 201, 214, 225, and 401; (e) All passenger cars manufactured on or after September 1, 2007, and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 208, 213, 214, 225, and 401; (f) All passenger cars manufactured on or after September 1, 2008 and before September 1, 2009 that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401; (g) All passenger cars manufactured on or after September 1, 2009 and before September 1, 2010 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401; (h) All passenger cars manufactured on or after September 1, 2010 and before September 1, 2011 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, and 225; (i) All passenger cars manufactured on or after September 1, 2011 and before September 1, 2017 that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225.
VSA-81	(a) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less that are less than 25 years old and that were manufactured before September 1, 1991; (b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less that were manufactured on and after September 1, 1991, and before September 1, 1993 and that, as originally manufactured, comply with FMVSS Nos. 202 and 208; (c) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, and 216; (d) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, 214, and 216; (e) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less that were manufactured on or after September 1, 2002, and before September 1, 2007, and that, as originally manufactured, comply with FMVSS Nos. 201, 202, 208, 214, and 216, and, insofar as it is applicable, with FMVSS No. 225; (f) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less manufactured on or after September 1, 2007 and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (g) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less manufactured on or after September 1, 2008 and before September 1, 2009, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (h) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less manufactured on or after September 1, 2009 and before September 1, 2011, that, as originally manufactured, comply with FMVSS Nos. 118, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (i) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less manufactured on or after September 1, 2011 and before September 1, 2012, that, as originally manufactured, comply with FMVSS Nos. 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; (j) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000lb) or less manufactured on or after September 1, 2012 and before September 1, 2017, that, as originally manufactured, comply with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 222, and 225;
VSA-82	All multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) that are less than 25 years old.
VSA-83	All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Acura	Legend	.....	1988	51	.....	.....
Acura	Legend	.....	1989	77	.....	.....
Acura	Legend	.....	1990–1992	305	.....	.....

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Alfa Romeo	164		1989	196		
Alfa Romeo	164		1991	76		
Alfa Romeo	164		1994	156		
Alfa Romeo	Spider		1992	503		
Alpina	B11	Sedan	1988–1994			48
Alpina	B12 5.0	Sedan	1988–1994			41
Alpina	B12	Coupe	1989–1996			43
Al-Spaw	EMA Mobile Stage Trailer		2009			42
Aston Martin	Vanquish		2002–2004	430		
Aston Martin	Vantage		2006–2007	530		
Audi	80		1988–1989	223		
Audi	100		1989	93		
Audi	100		1993	244		
Audi	100		1990–1992	317		
Audi	A4		1996–2000	352		
Audi	A4, RS4, S4	8D	2000–2001	400		
Audi	A6		1998–1999	332		
Audi	A8		2000	424		
Audi	A8		1997–2000	337		
Audi	A8 Avant Quattro		1996	238		
Audi	RS6 & RS Avant		2003	443		
Audi	S6		1996	428		
Audi	S8		2000	424		
Audi	TT		2000–2001	364		
Bentley	Arnage (manufactured 1/1/01–12/31/01)		2001	473		
Bentley	Azure (LHD & RHD)		1998	485		
Bimota (MC)	DB4		2000	397		
Bimota (MC)	SB6		1994–1999	523		
Bimota (MC)	SB8		1999–2000	397		
BMW	3 Series		1998	462		
BMW	3 Series		1999	379		
BMW	3 Series		2000	356		
BMW	3 Series		2001	379		
BMW	3 Series		1995–1997	248		
BMW	3 Series		2003–2004	487		
BMW	318i, 318iA		1988–1989		23	
BMW	320i		1990–1991	283		
BMW	325i		1991	96		
BMW	325i		1992–1996	197		
BMW	325i, 325iA		1988–1989		30	
BMW	325iS, 325iSA		1988–1989		31	
BMW	325iX		1990	205		
BMW	325iX, 325iXA		1988–1989		33	
BMW	5 Series		2000	345		
BMW	5 Series		1990–1995	194		
BMW	5 Series		1995–1997	249		
BMW	5 Series		1998–1999	314		
BMW	5 Series		2000–2002	414		
BMW	5 Series		2003–2004	450		
BMW	520iA		1989	9		
BMW	525i		1989	5		
BMW	528e, 528eA		1988		21	
BMW	635CSi, 635CSiA		1988–1989		27	
BMW	7 Series		1992	232		
BMW	7 Series		1990–1991	299		
BMW	7 Series		1993–1994	299		
BMW	7 Series		1995–1999	313		
BMW	7 Series		1999–2001	366		
BMW	730iA		1988	6		
BMW	735i, 735iA		1988–1989		28	
BMW	8 Series		1991–1995	361		
BMW	850 Series		1997	396		
BMW	850i		1990	10		
BMW	All other passenger car models except those in the M1 and Z1 series.		1988–1989		78	
BMW	M3		1988–1989		35	
BMW	M3 (manufactured prior to 9/1/06)		2006	520		
BMW	M5		1988		34	
BMW	M6		1988		32	
BMW	X5 (manufactured 1/1/03–12/31/04)		2003–2004	459		
BMW	Z3		1996–1998	260		
BMW	Z3 (European market)		1999	483		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
BMW	Z8		2002	406		
BMW	Z8		2000–2001	350		
BMW (MC)	C1		2000–2003			40
BMW (MC)	K1		1990–1993	228		
BMW (MC)	K100		1988–1992	285		
BMW (MC)	K1100, K1200		1993–1998	303		
BMW (MC)	K75		1996			36
BMW (MC)	K75S		1988–1995	229		
BMW (MC)	R1100		1994–1997	231		
BMW (MC)	R1100		1998–2001	368		
BMW (MC)	R1100RS		1994	177		
BMW (MC)	R1150GS		2000	453		
BMW (MC)	R1200C		1998–2001	359		
BMW (MC)	R80, R100		1988–1995	295		
Buell (MC)	All Models		1995–2002	399		
Cadillac	DeVille		1994–1999	300		
Cadillac	DeVille (manufactured 8/1/99–12/31/00)		2000	448		
Cadillac	Seville		1991	375		
Cagiva (MC)	Gran Canyon 900		1999	444		
Carrocerias	Cimarron trailer		2006–2007			37
Chevrolet	400SS		1995	150		
Chevrolet	Astro Van		1997	298		
Chevrolet	Blazer (plant code of "K" or "2" in the 11th position of the VIN).		1997	349		
Chevrolet	Blazer (plant code of "K" or "2" in the 11th position of the VIN).		2001	461		
Chevrolet	Camaro		1999	435		
Chevrolet	Cavalier		1997	369		
Chevrolet	Corvette		1992	365		
Chevrolet	Corvette	Coupe	1999	419		
Chevrolet	Suburban		1989–1991	242		
Chevrolet	Tahoe		2000	504		
Chevrolet	Tahoe		2001	501		
Chevrolet	Trailblazer (manufactured prior to 9/1/07 for sale in the Kuwaiti market).		2007	514		
Chrysler	Daytona		1992	344		
Chrysler	Grand Voyager		1998	373		
Chrysler	LHS (Mexican market)		1996	276		
Chrysler	Shadow (Middle Eastern market)		1989	216		
Chrysler	Town and Country		1993	273		
Citroen	XM		1990–1992			1
Dodge	Durango		2007	534		
Dodge	Ram		1994–1995	135		
Dodge	Ram 1500 Laramie Crew Cab		2009	535		
Ducati (MC)	600SS		1992–1996	241		
Ducati (MC)	748		1999–2003	421		
Ducati (MC)	748 Biposto		1996–1997	220		
Ducati (MC)	851		1988	498		
Ducati (MC)	888		1993	500		
Ducati (MC)	900		2001	452		
Ducati (MC)	900SS		1991–1996	201		
Ducati (MC)	916		1999–2003	421		
Ducati (MC)	996 Biposto		1999–2001	475		
Ducati (MC)	996R		2001–2002	398		
Ducati (MC)	MH900E		2001–2002	524		
Ducati (MC)	Monster 600		2001	407		
Ducati (MC)	ST4S		1999–2005	474		
Eagle	Vision		1994	323		
Ferrari	208, 208 Turbo (all models)		1988		76	
Ferrari	328 (all models)		1988–1989		37	
Ferrari	348 TB		1992	86		
Ferrari	348 TS		1992	161		
Ferrari	360		2001	376		
Ferrari	360 (manufactured after 9/31/02)		2002	433		
Ferrari	360 (manufactured before 9/1/02)		2002	402		
Ferrari	360 Modena		1999–2000	327		
Ferrari	360 Series		2004	446		
Ferrari	360	Spider & Coupe	2003	410		
Ferrari	456		1995	256		
Ferrari	456 GT & GTA		1999	445		
Ferrari	456 GT & GTA		1997–1998	408		
Ferrari	512 TR		1993	173		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Ferrari	550		2001	377		
Ferrari	550 Marinello		1997–1999	292		
Ferrari	575		2002–2003	415		
Ferrari	575		2004–2005	507		
Ferrari	599 (manufactured prior to 9/1/06)		2006	518		
Ferrari	Enzo		2003–2004	436		
Ferrari	F355		1995	259		
Ferrari	F355		1999	391		
Ferrari	F355		1996–1998	355		
Ferrari	F430 (manufactured prior to 9/1/06)		2005–2006	479		
Ferrari	F50		1995	226		
Ferrari	Mondial (all models)		1988–1989		74	
Ferrari	Testarossa		1988		39	
Ferrari	Testarossa		1989		39	
Ford	Bronco (manufactured in Venezuela)		1995–1996	265		
Ford	Escort (Nicaraguan market)		1996	322		
Ford	Escort RS Cosworth		1994–1995			9
Ford	Explorer (manufactured in Venezuela)		1991–1998	268		
Ford	F150		2000	425		
Ford	Mustang		1993	367		
Ford	Mustang		1997	471		
Ford	Windstar		1995–1998	250		
Freightliner	FLD12064ST		1991–1996	179		
Freightliner	FTLD112064SD		1991–1996	178		
GMC	Suburban		1992–1994	134		
Harley Davidson (MC)	FL Series		2010	528		
Harley Davidson (MC)	FX, FL, XL & VR Series		2004	422		
Harley Davidson (MC)	FX, FL, XL & VR Series		2008	517		
Harley Davidson (MC)	FX, FL, XL & VR Series		2009	522		
Harley Davidson (MC)	FX, FL, XL Series		1998	253		
Harley Davidson (MC)	FX, FL, XL Series		1999	281		
Harley Davidson (MC)	FX, FL, XL Series		2000	321		
Harley Davidson (MC)	FX, FL, XL Series		2001	362		
Harley Davidson (MC)	FX, FL, XL Series		2002	372		
Harley Davidson (MC)	FX, FL, XL Series		2003	393		
Harley Davidson (MC)	FX, FL, XL Series		2005	472		
Harley Davidson (MC)	FX, FL, XL Series		2006	491		
Harley Davidson (MC)	FX, FL, XL Series		1988–1997	202		
Harley Davidson (MC)	FX, FL, XL, & VR Series		2007	506		
Harley Davidson (MC)	FXSTC Soft Tail Custom		2007	499		
Harley Davidson (MC)	VRSCA		2002	374		
Harley Davidson (MC)	VRSCA		2003	394		
Harley Davidson (MC)	VRSCA		2004	422		
Hatty	45 ft double axle trailer		1999–2000			38
Heku	750 KG boat trailer		2005			33
Hobby	Exclusive 650 KMFE Trailer		2002–2003			29
Honda	Accord		1991	280		
Honda	Accord		1992–1999	319		
Honda	Accord (RHD)	Sedan & Wagon	1994–1997	451		
Honda	Civic DX	Hatchback	1989	128		
Honda	CRV		2002	447		
Honda	CR–V		2005	489		
Honda	Prelude		1989	191		
Honda	Prelude		1994–1997	309		
Honda (MC)	CB 750 (CB750F2T)		1996	440		
Honda (MC)	CB1000F		1988	106		
Honda (MC)	CBR 250		1989–1994			22
Honda (MC)	RVF 400		1994–2000	358		
Honda (MC)	VF750		1994–1998	290		
Honda (MC)	VFR 400		1994–2000	358		
Honda (MC)	VFR 400, RVF 400		1989–1993			24
Honda (MC)	VFR750		1990	34		
Honda (MC)	VFR750		1991–1997	315		
Honda (MC)	VFR800		1998–1999	315		
Honda (MC)	VT600		1991–1998	294		
Hyundai	Elantra		1992–1995	269		
Hyundai	XG350		2004	494		
Ifor Williams	LM85G trailer		2005			49
Jaguar	Sovereign		1993	78		
Jaguar	S-Type		2000–2002	411		
Jaguar	XJ6 Sovereign		1988	215		
Jaguar	XJ8		2002	536		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Jaguar	XJS		1991	175		
Jaguar	XJS		1992	129		
Jaguar	XJS		1994–1996	195		
Jaguar	XJS, XJ6		1988–1990	336		
Jaguar	XK–8		1998	330		
Jeep	Cherokee		1993	254		
Jeep	Cherokee (European market)		1991	211		
Jeep	Cherokee (LHD & RHD)		1994	493		
Jeep	Cherokee (LHD & RHD)		1995	180		
Jeep	Cherokee (LHD & RHD)		1996	493		
Jeep	Cherokee (LHD & RHD)		1997–1998	516		
Jeep	Cherokee (LHD & RHD)		1997–2001	515		
Jeep	Cherokee (Venezuelan market)		1992	164		
Jeep	Grand Cherokee		1994	404		
Jeep	Grand Cherokee		1997	431		
Jeep	Grand Cherokee		2001	382		
Jeep	Grand Cherokee (LHD—Japanese market).		1997	389		
Jeep	Liberty		2002	466		
Jeep	Liberty		2005	505		
Jeep	Liberty (Mexican market)		2004	457		
Jeep	Wrangler		1993	217		
Jeep	Wrangler		1995	255		
Jeep	Wrangler		1998	341		
Jeep	Wrangler (RHD)		2000–2003			50
Kawasaki (MC)	EL250		1992–1994	233		
Kawasaki (MC)	Ninja ZX–6R		2002			44
Kawasaki (MC)	VN1500–P1/P2 series		2003	492		
Kawasaki (MC)	ZR750		2000–2003	537		
Kawasaki (MC)	ZX1000–B1		1988	182		
Kawasaki (MC)	ZX400		1988–1997	222		
Kawasaki (MC)	ZX6, ZX7, ZX9, ZX10, ZX11		1988–1999	312		
Kawasaki (MC)	ZX600		1988–1998	288		
Kawasaki (MC)	ZZR1100		1993–1998	247		
Ken-Mex	T800		1990–1996	187		
Kenworth	T800		1992	115		
Komet	Standard, Classic & Eurolite trailer		2000–2005	477		
KTM (MC)	Duke II		1995–2000	363		
Lamborghini	Diablo (except 1997 Coupe)		1996–1997	416		
Lamborghini	Diablo	Coupe	1997			26
Lamborghini	Gallardo (manufactured 1/1/04–12/31/04).		2004	458		
Lamborghini	Gallardo (manufactured 1/1/06–8/31/06)		2006	508		
Lamborghini	Murcielago	Roadster	2005	476		
Land Rover	Defender 110		1993	212		
Land Rover	Defender 90	VIN & Body Limited	1994–1995	512		
Land Rover	Defender 90 (manufactured before 9/1/97) and VIN "SALDV224*VA" or "SALDV324*VA".		1997	432		
Land Rover	Discovery		1994–1998	338		
Land Rover	Discovery (II)		2000	437		
Land Rover	Range Rover		2004	509		
Land Rover	Range Rover		2006	538		
Lexus	GS300		1998	460		
Lexus	GS300		1993–1996	293		
Lexus	RX300		1998–1999	307		
Lexus	SC300		1991–1996	225		
Lexus	SC400		1991–1996	225		
Lincoln	Mark VII		1992	144		
M&V	Type NS4G31 trailer		2008–2010			46
Magni (MC)	Australia, Sfida		1996–1999	264		
Mazda	MPV		2000	413		
Mazda	MX–5 Miata		1990–1993	184		
Mazda	RX–7		1988–1995	279		
Mazda	Xedos 9		1995–2000	351		
Mercedes Benz	190 D	201.126	1988–1989		54	
Mercedes Benz	190 D (2.2)	201.122	1988–1989		54	
Mercedes Benz	190 E	201.028	1990	22		
Mercedes Benz	190 E	201.036	1990	104		
Mercedes Benz	190 E	201.024	1991	45		
Mercedes Benz	190 E	201.028	1992	71		
Mercedes Benz	190 E	201.018	1992	126		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Mercedes Benz	190 E		1993	454		
Mercedes Benz	190 E	201.028	1988–1989		54	
Mercedes Benz	190 E (2.3)	201.024	1988–1989		54	
Mercedes Benz	190 E (2.6)	201.029	1988–1989		54	
Mercedes Benz	190 E (2.6) 16	201.034	1988–1989		54	
Mercedes Benz	200 E	124.021	1989	11		
Mercedes Benz	200 E	124.012	1991	109		
Mercedes Benz	200 E	124.019	1993	75		
Mercedes Benz	200 TE	124.081	1989	3		
Mercedes Benz	220 E		1993	168		
Mercedes Benz	220 TE	Station Wagon	1993–1996	167		
Mercedes Benz	230 CE	124.043	1991	84		
Mercedes Benz	230 CE	123.043	1992	203		
Mercedes Benz	230 E	124.023	1988	1		
Mercedes Benz	230 E	124.023	1989	20		
Mercedes Benz	230 E	124.023	1990	19		
Mercedes Benz	230 E	124.023	1991	74		
Mercedes Benz	230 E	124.023	1993	127		
Mercedes Benz	230 TE	124.083	1989	2		
Mercedes Benz	250 D		1992	172		
Mercedes Benz	250 E		1990–1993	245		
Mercedes Benz	260 E	124.026	1992	105		
Mercedes Benz	260 E	124.026	1988–1989		55	
Mercedes Benz	260 SE	126.020	1989	28		
Mercedes Benz	280 E		1993	166		
Mercedes Benz	280 SE	116.024	1988		51	
Mercedes Benz	300 CE	124.051	1990	64		
Mercedes Benz	300 CE	124.051	1991	83		
Mercedes Benz	300 CE	124.050	1992	117		
Mercedes Benz	300 CE	124.061	1993	94		
Mercedes Benz	300 CE	124.050	1988–1989		55	
Mercedes Benz	300 D Turbo	124.193	1988–1989		55	
Mercedes Benz	300 DT	124.133	1988–1989		55	
Mercedes Benz	300 E	124.031	1992	114		
Mercedes Benz	300 E	124.030	1988–1989		55	
Mercedes Benz	300 E 4-Matic		1990–1993	192		
Mercedes Benz	300 SD	126.120	1988–1989		53	
Mercedes Benz	300 SE	126.024	1990	68		
Mercedes Benz	300 SE	126.024	1988–1989		53	
Mercedes Benz	300 SEL	126.025	1990	21		
Mercedes Benz	300 SEL	126.025	1988–1989		53	
Mercedes Benz	300 SL	107.041	1988		44	
Mercedes Benz	300 SL	107.041	1989	7		
Mercedes Benz	300 SL	129.006	1992	54		
Mercedes Benz	300 TE	124.090	1990	40		
Mercedes Benz	300 TE		1992	193		
Mercedes Benz	300 TE	124.090	1988–1989		55	
Mercedes Benz	320 CE		1993	310		
Mercedes Benz	320 SL		1992–1993	142		
Mercedes Benz	350 CLS		2004			45
Mercedes Benz	380 SE	126.043	1988–1989		53	
Mercedes Benz	380 SE	126.032	1988–1989		53	
Mercedes Benz	380 SEL	126.033	1988–1989		53	
Mercedes Benz	380 SL	107.045	1988–1989		44	
Mercedes Benz	380 SLC	107.025	1988–1989		44	
Mercedes Benz	400 SE		1992–1994	296		
Mercedes Benz	420 E		1993	169		
Mercedes Benz	420 SE	126.034	1988–1989		53	
Mercedes Benz	420 SE		1990–1991	230		
Mercedes Benz	420 SEC		1990	209		
Mercedes Benz	420 SEL	126.035	1990	48		
Mercedes Benz	420 SEL	126.035	1988–1989		53	
Mercedes Benz	450 SEL	116.033	1988		51	
Mercedes Benz	450 SEL (6.9)	116.036	1988		51	
Mercedes Benz	450 SL	107.044	1988–1989		44	
Mercedes Benz	450 SLC	107.024	1988–1989		44	
Mercedes Benz	500 E	124.036	1991	56		
Mercedes Benz	500 SE	126.036	1988	35		
Mercedes Benz	500 SE		1990	154		
Mercedes Benz	500 SE	140.050	1991	26		
Mercedes Benz	500 SEC	126.044	1990	66		
Mercedes Benz	500 SEC	126.044	1988–1989		53	

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Mercedes Benz	500 SEL		1990	153		
Mercedes Benz	500 SEL	126.037	1991	63		
Mercedes Benz	500 SEL	126.037	1988–1989		53	
Mercedes Benz	500 SL	129.066	1989	23		
Mercedes Benz	500 SL	126.066	1991	33		
Mercedes Benz	500 SL	129.006	1992	60		
Mercedes Benz	500 SL	107.046	1988–1989		44	
Mercedes Benz	560 SEC	126.045	1990	141		
Mercedes Benz	560 SEC		1991	333		
Mercedes Benz	560 SEC	126.045	1988–1989		53	
Mercedes Benz	560 SEL	126.039	1990	89		
Mercedes Benz	560 SEL	140	1991	469		
Mercedes Benz	560 SEL	126.039	1988–1989		53	
Mercedes Benz	560 SL	107.048	1988–1989		44	
Mercedes Benz	600 SEC	Coupe	1993	185		
Mercedes Benz	600 SEL	140.057	1993–1998	271		
Mercedes Benz	600 SL	129.076	1992	121		
Mercedes Benz	All other passenger car models except Model ID 114 and 115 with sales designations "long," "station wagon," or "ambulance".		1988–1989		77	
Mercedes Benz	C 320	203	2001–2002	441		
Mercedes Benz	C Class		1994–1999	331		
Mercedes Benz	C Class	203	2000–2001	456		
Mercedes Benz	CL 500		1998	277		
Mercedes Benz	CL 500		1999–2001	370		
Mercedes Benz	CL 600		1999–2001	370		
Mercedes Benz	CLK 320		1998	357		
Mercedes Benz	CLK Class		1999–2001	380		
Mercedes Benz	CLK-Class	209	2002–2005	478		
Mercedes Benz	CLS Class (manufactured prior to 9/1/06).		2006	532		
Mercedes Benz	E 200		1994	207		
Mercedes Benz	E 200		1995–1998	278		
Mercedes Benz	E 220		1994–1996	168		
Mercedes Benz	E 250		1994–1995	245		
Mercedes Benz	E 280		1994–1996	166		
Mercedes Benz	E 320		1994–1998	240		
Mercedes Benz	E 320	211	2002–2003	418		
Mercedes Benz	E 320	Station Wagon	1994–1999	318		
Mercedes Benz	E 420		1994–1996	169		
Mercedes Benz	E 500		1994	163		
Mercedes Benz	E 500		1995–1997	304		
Mercedes Benz	E Class	W210	1996–2002	401		
Mercedes Benz	E Class	211	2003–2004	429		
Mercedes Benz	E Series		1991–1995	354		
Mercedes Benz	G Class (463 Chassis) LWB		2006–2007	527		
Mercedes Benz	G-Wagon	463	1996			11
Mercedes Benz	G-Wagon	463	1997			15
Mercedes Benz	G-Wagon	463	1998			16
Mercedes Benz	G-Wagon	463	1999–2000			18
Mercedes Benz	G-Wagon 300 GE LWB	463.228	1993			3
Mercedes Benz	G-Wagon 300 GE LWB	463.228	1994			5
Mercedes Benz	G-Wagon 300 GE LWB	463.228	1990–1992			5
Mercedes Benz	G-Wagon 320 LWB	463	1995			6
Mercedes Benz	G-Wagon 5 DR LWB	463	2001			21
Mercedes Benz	G-Wagon 5 DR LWB	463	2002	392		
Mercedes Benz	G-Wagon LWB V–8	463	1992–1996			13
Mercedes Benz	G-Wagon SWB	463	2005			31
Mercedes Benz	G-Wagon SWB	463	1990–1996			14
Mercedes Benz	G-Wagon SWB	463 Cabriolet & 3DR	2004			28
Mercedes Benz	G-Wagon SWB	463 Cabriolet & 3DR	2001–2003			25
Mercedes Benz	G-Wagon SWB (manufactured before 9/1/06).	463 Cabriolet & 3DR	2006			35
Mercedes Benz	Maybach		2004	486		
Mercedes Benz	S 280	140.028	1994	85		
Mercedes Benz	S 320		1994–1998	236		
Mercedes Benz	S 420		1994–1997	267		
Mercedes Benz	S 500		1994–1997	235		
Mercedes Benz	S 500		2000–2001	371		
Mercedes Benz	S 600		1995–1999	297		
Mercedes Benz	S 600		2000–2001	371		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Mercedes Benz	S 600	Coupe	1994	185		
Mercedes Benz	S 600L		1994	214		
Mercedes Benz	S Class		1993	395		
Mercedes Benz	S Class	140	1991–1994	423		
Mercedes Benz	S Class		1995–1998	342		
Mercedes Benz	S Class		1998–1999	325		
Mercedes Benz	S Class	W220	1999–2002	387		
Mercedes Benz	S Class	220	2002–2004	442		
Mercedes Benz	S Class (manufactured prior to 9/1/2006).	221	2003–2006	521		
Mercedes Benz	S Class (manufactured prior to 9/1/2006).		2005–2006	525		
Mercedes Benz	SE Class		1992–1994	343		
Mercedes Benz	SEL Class	140	1992–1994	343		
Mercedes Benz	SL Class		1993–1996	329		
Mercedes Benz	SL Class	W129	1997–2000	386		
Mercedes Benz	SL Class	R230	2001–2002			19
Mercedes Benz	SL-Class (European market)	230	2003–2005	470		
Mercedes Benz	SLK		1997–1998	257		
Mercedes Benz	SLK		2000–2001	381		
Mercedes Benz	SLK Class (manufactured between 8/31/04 and 8/31/06).	171 Chassis	2005–2006	511		
Mercedes Benz (truck)	Sprinter		2001–2005	468		
Mini	Cooper (European market)	Convertible	2005	482		
Mitsubishi	Galant Super Salon		1989	13		
Mitsubishi	Galant VX		1988	8		
Moto Guzzi (MC)	California		2000–2001	495		
Moto Guzzi (MC)	California EV		2002	403		
Moto Guzzi (MC)	Daytona		1993	118		
Moto Guzzi (MC)	Daytona RS		1996–1999	264		
MV Agusta (MC)	F4		2000	420		
Nissan	240SX		1988	162		
Nissan	GTS & GTR (RHD) a.k.a. "Skyline" manufactured 1/96–6/98.	R33	1996–1998			32
Nissan	Maxima		1989	138		
Nissan	Pathfinder		2002	412		
Nissan	Pathfinder		1988–1995	316		
Peugeot	405		1989	65		
Plymouth	Voyager		1996	353		
Pontiac	Firebird Trans Am		1995	481		
Pontiac (MPV)	Trans Sport		1993	189		
Porsche	911		1991	526		
Porsche	911		1997–2000	346		
Porsche	911 (996) Carrera		2002–2004	439		
Porsche	911 (996) GT3		2004	438		
Porsche	911 C4		1990	29		
Porsche	911	Cabriolet	1988–1989		56	
Porsche	911 Carrera		1993	165		
Porsche	911 Carrera		1994	103		
Porsche	911 Carrera		1988–1989		56	
Porsche	911 Carrera		1995–1996	165		
Porsche	911 Carrera (manufactured prior to 9/1/06).		2005–2006	531		
Porsche	911 Carrera 2 & Carrera 4		1992	52		
Porsche	911 Carrera (manufactured prior to 9/1/06).	Cabriolet	2005–2006	513		
Porsche	911	Coupe	1988–1989		56	
Porsche	911 Targa		1988–1989		56	
Porsche	911 Turbo		1992	125		
Porsche	911 Turbo		2001	347		
Porsche	911 Turbo		1988–1989		56	
Porsche	924	Coupe	1988–1989		59	
Porsche	924 S		1988–1989		59	
Porsche	924 Turbo	Coupe	1988–1989		59	
Porsche	928		1991–1996	266		
Porsche	928		1993–1998	272		
Porsche	928	Coupe	1988–1989		60	
Porsche	928 GT		1988–1989		60	
Porsche	928 S	Coupe	1988–1989		60	
Porsche	928 S4		1990	210		
Porsche	928 S4		1988–1989		60	
Porsche	944	Coupe	1988–1989		61	

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Porsche	944 S	Cabriolet	1990	97		
Porsche	944 S	Coupe	1988–1989		61	
Porsche	944 S2	2-door Hatchback	1990	152		
Porsche	944 Turbo	Coupe	1988–1989		61	
Porsche	946 Turbo		1994	116		
Porsche	All other passenger car models except Model 959.		1988–1989		79	
Porsche	Boxster		1997–2001	390		
Porsche	Boxster (manufactured before 9/1/02)		2002	390		
Porsche	Carrera GT		2004–2005	463		
Porsche	Cayenne		2003–2004	464		
Porsche	Cayenne (manufactured prior to 9/1/06)		2006	519		
Porsche	GT2		2001			20
Porsche	GT2		2002	388		
Rice	Beaufort Double		1991	529		
Rolls Royce	Bentley		1988–1989	340		
Rolls Royce	Bentley Brooklands		1993	186		
Rolls Royce	Bentley Continental R		1990–1993	258		
Rolls Royce	Bentley Turbo R		1995	243		
Rolls Royce	Bentley Turbo R		1992–1993	291		
Rolls Royce	Phantom		2004	455		
Saab	9.3		2003	426		
Saab	900 S		1988–1989	270		
Saab	900 SE		1995	213		
Saab	900 SE		1990–1994	219		
Saab	900 SE		1996–1997	219		
Saab	9000		1988	59		
Saab	9000		1994	334		
Smart Car	Fortwo (incl. trim levels passion, pulse, & pure).	coupe & cabriolet	2005			30
Smart Car	Fortwo (incl. trim levels passion, pulse, & pure).	coupe & cabriolet	2002–2004			27
Smart Car	Fortwo (incl. trim levels passion, pulse, & pure) manufactured before 9/1/06.	coupe & cabriolet	2006			34
Smart Car	Fortwo (incl. trim levels passion, pulse, & pure) manufactured before 9/1/06.	coupe & cabriolet	2007			39
Subaru	Forester		2006–2007	510		
Suzuki (MC)	GSF 750		1996–1998	287		
Suzuki (MC)	GSX1300R a.k.a. "Hayabusa"		1999–2006	484		
Suzuki (MC)	GSX1300R a.k.a. "Hayabusa"		2007–2011	533		
Suzuki (MC)	GSX–R 1100		1988–1997	227		
Suzuki (MC)	GSX–R 750		1988–1998	275		
Suzuki (MC)	GSX–R 750		1999–2003	417		
Toyota	4-Runner		1998	449		
Toyota	Avalon		1995–1998	308		
Toyota	Camry		1988		63	
Toyota	Camry		1989	39		
Toyota	Celica		1988		64	
Toyota	Corolla		1988		65	
Toyota	Land Cruiser		1988	252		
Toyota	Land Cruiser		1989	101		
Toyota	Land Cruiser		1990–1996	218		
Toyota	Land Cruiser (manufactured prior to 9/1/2006).	IFS 100 series	1999–2006	539		
Toyota	MR2		1990–1991	324		
Toyota	Previa		1991–1992	326		
Toyota	Previa		1993–1997	302		
Toyota	RAV4		1996	328		
Toyota	RAV4		2005	480		
Toyota	Van		1988	200		
Triumph (MC)	Thunderbird		1995–1999	311		
Vespa (MC)	ET2, ET4		2001–2002	378		
Vespa (MC)	LX and PX		2004–2005	496		
Volkswagen	Bora		1999	540		
Volkswagen	Eurovan		1993–1994	306		
Volkswagen	Golf		1988	80		
Volkswagen	Golf		2005	502		
Volkswagen	Golf III		1993	92		
Volkswagen	Golf Rallye		1988	73		
Volkswagen	Golf Rallye		1989	467		
Volkswagen	GTI (Canadian market)		1991	149		
Volkswagen	Jetta		1994–1996	274		

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Make	Model type(s)	Body	Model year(s)	VSP	VSA	VCP
Volkswagen	Passat	Wagon & Sedan	2004	488		
Volkswagen	Passat 4-door	Sedan	1992	148		
Volkswagen	Transporter		1990	251		
Volkswagen	Transporter		1988–1989	284		
Volvo	740 GL		1992	137		
Volvo	740	Sedan	1988	87		
Volvo	850 Turbo		1995–1998	286		
Volvo	940 GL		1992	137		
Volvo	940 GL		1993	95		
Volvo	945 GL	Wagon	1994	132		
Volvo	960	Sedan & Wagon	1994	176		
Volvo	C70		2000	434		
Volvo	S70		1998–2000	335		
Yamaha (MC)	Drag Star 1100		1999–2007	497		
Yamaha (MC)	FJ1200 (4 CR)		1991	113		
Yamaha (MC)	FJR 1300		2002			23
Yamaha (MC)	R1		2000	360		
Yamaha (MC)	Virago		1990–1998	301		

Issued on: September 21, 2012.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2012–23840 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III

Statutory Amendments Affecting Transportation of Agricultural Commodities and Farm Supplies

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notification of statutory exemptions.

SUMMARY: FMCSA alerts motor carriers and enforcement officials of two statutory exemptions included in the MAP–21 transportation reauthorization legislation that are applicable to certain motor carriers engaged in the transportation of agricultural commodities and farm supplies. Section 32101 of MAP–21 provides a statutory exemption from the hours-of-service regulations for certain carriers transporting agricultural commodities and farm supplies and section 32934 provides a statutory exemption from most of the Federal Motor Carrier Safety Regulations for the operation of covered farm vehicles by farm and ranch operators, their employees, and certain other specified individuals under certain specific circumstances. The statutory provisions are self-executing and take effect on October 1, 2012. This notice is intended to ensure that enforcement officials and the motor carriers are aware of the statutory provisions. The Agency will, at a later date, conform the FMCSRs to the statutory provisions.

DATES: The legislative provisions are effective October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; 1200 New Jersey Ave. SE., Washington, DC 20590, Telephone 202–366–4325, Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2012, the President signed into law ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21) (Pub. L. 112–141, 126 Stat. 405). MAP–21 included two provisions applicable to the operation of commercial motor vehicles (CMVs) for agricultural purposes. They are section 32101(d), ''Transportation of Agricultural Commodities and Farm Supplies,'' and section 32934, ''Exemptions from Requirements for Covered Farm Vehicles.''

Section 32101(d) of MAP–21

Section 32101(d) of MAP–21 amends section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 [49 U.S.C. 31136 (note)] which provides a statutory exemption from the Federal hours-of-service (HOS) rules for commercial motor vehicle (CMV) drivers engaged in the transportation of agricultural commodities and farm supplies.

FMCSA's previous guidance on its HOS regulations stated that the NHS Act agricultural operations exemption applies to the transportation of farm supplies from the local farm retailer to the ultimate consumer within a 100 air-mile radius. FMCSA's interpretation, however, had not extended the HOS exemption to deliveries from wholesalers located at port or terminal facilities to either local farm retailers or farms. (*See* Question 33, 49 CFR 395.1 on the Agency's Web site: *www.fmcsa.dot.gov.*) Question 33 reads as follows:

Question 33: How is ''point of origin'' defined for the purpose of § 395.1(k)?

Guidance: The term ''point of origin'' is not used in the NHS Designation Act; the statutory term is ''source of the [agricultural] commodities.'' The exemption created by the Act applies to two types of transportation. The first type is transportation from the source of the agricultural commodity—where the product is grown or raised—to a location within a 100 air-mile radius of the source. The second type is transportation from a retail distribution point of the farm supply to a location (farm or other location where the farm supply product would be used) within a 100 air-mile radius of the retail distribution point.

The legislative history of the agricultural exemption indicates it was intended to only apply to retail store deliveries. Thus, it is clear Congress intended to limit this exemption to retail distributors of farm supplies.

Second-stage movements, such as grain hauled from an elevator (or sugar beets from a cold storage facility) to a processing plant, are more likely to fall outside the exempt radius. Similarly, the exemption does not apply to a wholesaler's transportation of an agricultural chemical to a local cooperative because this is not a retail

delivery to an ultimate consumer, even if it is within the 100 air-mile radius.

In consideration of the new statutory exemption, FMCSA withdraws the above guidance. And through the publication of this notice and distribution of information to the enforcement community, the Agency will ensure the full implementation of the MAP–21 statutory exemption on October 1, 2012.

In addition, the Agency announces that its 2-year, limited exemption from the Federal HOS regulations for certain carriers engaged in the transportation of anhydrous ammonia, granted on October 6, 2010 (75 FR 61626), is no longer needed and will not be renewed. The 2-year limited exemption covered the transportation of anhydrous ammonia from any distribution point to a local farm retailer or the ultimate consumer, and from a local farm retailer to the ultimate consumer, as long as the transportation takes place within a 100 air-mile radius of the retail or wholesale distribution point. The MAP–21 statutory exemption addresses the needs of the carriers covered by the 2010 exemption notice.

Impact of Section 32101(d) on the States

The statutory amendment does not, in and of itself, require any actions by the States, at this time. However, FMCSA requests that States immediately take action to put into place policies and procedures to provide the regulatory relief provided by section 32101(d) of MAP–21. The Agency will amend the FMCSRs to reflect the language in section 32101(d) and the States will be required as a condition of receiving Motor Carrier Safety Assistance Program (MCSAP) funding, to adopt and enforce compatible safety regulations.

MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of crashes and hazardous materials incidents involving CMVs. The goal of the MCSAP is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. The MCSAP rules (49 CFR Part 350) include conditions for participation by States and local jurisdictions and promote the adoption and uniform enforcement of safety rules, regulations and standards compatible with the FMCSRs and Federal Hazardous Materials Regulations (HMRs) for both interstate and intrastate motor carriers and drivers.

States are required by 49 CFR 350.331 to amend their laws and regulations within three years after the effective date of any newly enacted regulation or amendment to the FMCSRs or HMRs. While this notice is not a rulemaking action amending the FMCSRs, FMCSA requests that States immediately take action to put into place policies and procedures to provide the regulatory relief provided by MAP–21, and to follow up with the appropriate amendments to their laws and regulations to reflect the statutory exemption in section 32101(d). FMCSA will issue, at a later date, a final rule to amend the FMCSRs to reflect this MAP–21 provision. The effective date of that rule would begin the three-year period during which the States must adopt compatible regulations to remain eligible for MCSAP funding.

Section 32934 of MAP–21

Section 32934 of MAP–21 provides a statutory exemption from most of the FMCSRs, including those pertaining to commercial driver's licenses (CDL) and driver physical qualifications (medical) requirements, for the operation of covered farm vehicles by farm and ranch operators, their employees, and certain other specified individuals under specific circumstances.

The Agency notes the scope of the statutory exemption provided by section 32934 is broad and its applicability may be difficult to determine. The Agency will work with the enforcement community and motor carriers to provide clarification, as needed, to ensure the statutory exemption is implemented as intended by Congress. The statue provides relief from:

- 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties
- 49 CFR Part 382: Controlled Substances and Alcohol Use and Testing
- 49 CFR Part 391, Subpart E: Physical Qualifications and Examinations
- 49 CFR Part 395: Hours of Service
- 49 CFR Part 396: Inspection, Repair and Maintenance

Which CMVs are considered covered farm vehicles?

With regard to covered farm vehicles, the statute lists several criteria, including a requirement that the vehicles be ''equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel.'' This statutory provision explicitly excludes farm vehicles transporting hazardous materials in quantities requiring placards. Therefore, the absence of a ''special license plate or other designation by the State in which the vehicle is registered,'' or the presence of hazardous materials in a quantity requiring placards are straightforward indicators that the farm vehicle in question is not covered by the statutory exemption. The other criteria require more in-depth consideration by motor carriers and enforcement officials to determine the applicability of the exemption. The other criteria for identifying a ''covered farm vehicle'' are located at section 32934 of MAP–21.

The statutory definition of covered farm vehicles may include vehicles described above that are (1) operated pursuant to a crop share farm lease agreement; (2) owned by a tenant with respect to that agreement; and (3) transporting the landlord's portion of the crops under that agreement. However, section 32934 is not applicable to the operation of farm vehicles by for-hire motor carriers.

Relationship Between Section 32934 of MAP–21 and 49 CFR 383.3

With regard to the CDL requirements, FMCSA notes that certain drivers in the agricultural industry who are not covered by the MAP–21 provision, based on the statutory definition of ''covered farm vehicle,'' may be covered by an existing regulatory exception from the CDL requirements. As the Agency concluded in its August 15, 2011 (76 FR 50433) notice concerning the applicability of the FMCSRs to operators of certain farm vehicles, Under 49 CFR 383.3(d), the States are allowed, at their discretion, to provide relief from the CDL requirements under certain specific circumstances. The regulatory relief under section 383.3(d)(1)(iii) excludes drivers working for commercial common or contract carriers. However, it covers drivers transporting both the farmer's and the landlord's crops under a crop share agreement, even if the sharecropper is specifically compensated for performing the transportation, as the Agency made clear in its notice of August 15, 2011 (76 FR 50433). In other words, the CDL exemption is equally available to (1) farmers who own their land and haul their crops to market; (2) farmers who rent their land for cash and haul their crops to market; and (3) farmers who rent their land for a share of the crops and haul their own and the landlord's crops to market. These farmers continue to be eligible for the CDL exemption if a State elects to provide the exemption.

Impact of Section 32934 on the States

The section 32934 provision of MAP–21 includes language concerning the impact of the statutory exemption on the States' eligibility for Federal

transportation funding to ensure that States are not penalized for providing regulatory relief consistent with the statutory exemption. The statute states that ''Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.''

In its simplest terms, the statute makes it clear that States adopting compatible regulations concerning motor carriers and drivers operating covered farm vehicles in intrastate commerce must not be penalized through the withholding of Federal transportation funding, specifically grants associated with the FMCSA's (MCSAP) and highway construction grants that could be withheld from States for substantial non-compliance with the CDL.

As indicated previously in this notice, States are required by 49 CFR 350.331 to amend their laws and regulations within three years after the effective date of any newly enacted regulation or amendment to the FMCSRs or HMRs. While this notice is not a rulemaking action amending the FMCSRs, FMCSA requests that States immediately take action to put into place policies and procedures to provide the regulatory relief provided by MAP–21, and to follow-up with the appropriate amendments to their laws and regulations to reflect the statutory exemption in section 32934. FMCSA will issue, at a later date, a final rule to amend the FMCSRs to reflect this MAP–21 provision. The effective date of that rule would begin the three-year period during which the States must adopt compatible regulations to remain eligible for MCSAP funding.

As far as the impact of section 32934 on States' CDL programs, the statute makes clear that the U.S. Department of Transportation must not withhold Federal-aid highway funds from a State because the State provided exceptions or exemptions from its CDL requirements when that relief is compatible with the language in MAP–21. Therefore, such exceptions or exemptions will not be considered substantial non-compliance, and section 384.301, Withholding of funds based on noncompliance, would not be applicable in these circumstances.

Future Action

The Agency intends to to conform the FMCSRs to the statutory provisions. This notice is intended to ensure that all interested parties are aware of these self-executing provisions of MAP–21 in the interim.

Issued on: September 26, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–24106 Filed 9–27–12; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

[Docket No. 080603729–2454–02]

RIN 0648–AW83

Atlantic Highly Migratory Species; 2006 Consolidated Highly Migratory Species Fishery Management Plan; Amendment 4

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

ACTION: Final rule.

SUMMARY: This fishery management plan (FMP) amendment addresses Atlantic highly migratory species (HMS) fishery management measures in the U.S. Caribbean territories including Puerto Rico and the U.S. Virgin Islands. There are substantial differences between some segments of the U.S. Caribbean HMS fisheries and the HMS fisheries that occur off the mainland of the United States, including: Limited fishing permit and dealer permit possession; smaller vessels; limited availability of processing and cold storage facilities; shorter trips; limited profit margins; and high local consumption of catches. These differences create an awkward fit between current federal HMS fishery regulations and the traditional operation of small-scale Caribbean HMS fisheries, and some small-scale commercial fishermen in the Caribbean may not be currently operating consistently with HMS fishing and dealer reporting requirements. NMFS is implementing management measures through this rulemaking that amend the HMS fishery management regulations in the U.S. Caribbean territories of Puerto Rico and the U.S. Virgin Islands to better manage the traditional small-scale commercial HMS fishing fleet in the U.S. Caribbean Region, enhance fishing opportunities and improve profits for the fleet, and to provide us with an improved capability to monitor and sustainably manage those fisheries. This final rule creates an HMS Commercial Caribbean Small Boat (CCSB) permit, which allows fishing for and sale of bigeye, albacore, yellowfin, and skipjack (BAYS) tunas, Atlantic swordfish, and Atlantic sharks within local U.S. Caribbean markets. Management measures under the CCSB permit include specific species authorizations and retention limits, reporting requirement modifications, specific gear authorizations, vessel size restrictions, and mandatory workshop training. Additionally, NMFS stipulates that the CCSB permit cannot be held in combination with any other HMS permit.

DATES: Effective on January 2, 2013.

ADDRESSES: Copies of the supporting documents–including the Environmental Assessment, Regulatory Impact Review, Final Regulatory Flexibility Analysis, small entity compliance guide, and the 2006 Consolidated Atlantic HMS FMP are available for download from the HMS Web site at *http://www.nmfs.noaa.gov/sfa/hms/or* upon request from the Atlantic HMS Management Division at 1315 East-West Highway, Silver Spring, MD 20910. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the Atlantic HMS Management Division (see above), by email to *OIRA_Submission@omb.eop.gov,* or by fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Randy Blankinship, Rick Pearson, or Katie Davis by phone at 727–824–5399 or Delisse Ortiz by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic tunas and swordfish are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tuna Conventions Act (ATCA), which authorizes the Secretary of Commerce (the Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Federal Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA. On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas,

Swordfish, and Sharks (1999 FMP). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated HMS FMP, which details the management measures for Atlantic HMS fisheries, including the HMS handgear fishery. The implementing regulations for the Consolidated HMS FMP and its amendments for Atlantic HMS are at 50 CFR part 635.

Background

On March 16, 2012, NMFS published a proposed rule (77 CFR 6455) in the **Federal Register** to modify the federal HMS fishery regulations for the U.S. Caribbean Region. This rule finalizes the proposed management measures in the March 16, 2012 Proposed Rule. The purpose of this amendment is to enact HMS management measures that better correspond with the traditional operation of the small boat fishing fleet in the U.S. Caribbean Region and to provide NMFS with an improved capability to monitor and sustainably manage those fisheries.

The specific objectives for this action are to:

- Increase participation in the HMS Federal fishery management program in the U.S. Caribbean Region;
- Expand regional HMS permit availability and increase permitting program awareness, participation, and compliance in the U.S. Caribbean Region;
- Improve regional HMS catch and fishing effort data;
- Examine and implement regionally tailored HMS management strategies, as appropriate;
- Provide targeted training and outreach to HMS fishery participants; and
- Improve NMFS' capability to monitor and sustainably manage U.S. Caribbean HMS fisheries.

NMFS will issue the new CCSB permit from its Southeast Regional Permit Office pursuant to this final rule and other applicable provisions of 50 CFR part 635. Application procedures will be similar to those used for other fishing permits issued by the Southeast Regional Permit Office.

A summary of the history and impacts of this action is provided in the proposed rule (77 CFR 6455, March 16, 2012) and environmental assessment, and those details are not repeated here. A more complete summary of Atlantic HMS management can be found in the 2006 Consolidated HMS FMP, the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Reports, and online at *http://www.nmfs.noaa.gov/sfa/hms/*. A brief summary of the actions of this final rule can be found below.

This final rule creates the open access HMS CCSB permit, which allows holders to fish for and sell BAYS tunas, swordfish, and sharks in the U.S. Caribbean Region. The CCSB permit authorizes the possession and use of rod and reel, handline, harpoon, bandit gear, green-stick gear, and buoy gear. The vessels eligible for a CCSB permit are those 45 feet or less in length overall (LOA). The CCSB permit is only valid for fishing and sales in the U.S. Caribbean Region, and may not be held in combination with any other HMS vessel permit. CCSB permit holders are required to physically possess their permit, or a copy of their permit, at all times during the harvest, retention, landing and sale of HMS.

Landings data from the CCSB permit will be collected through cooperation with NMFS and existing territorial government fisheries data collection programs, as specified by those programs. The individual territorial governments will be responsible for supplying these data to the NMFS Southeast Fisheries Science Center and meeting requirements determined to be appropriate by NMFS.

The CCSB permit is a commercial-only permit and, as such, does not authorize the retention of billfish. Rod and reel, handline, harpoon, bandit, green-stick, and buoy gears are authorized for the harvest of BAYS tunas; rod and reel, handline, harpoon, bandit, and buoy gears are authorized for the harvest of swordfish; and rod and reel, handline, and bandit gears are authorized for the harvest of sharks.

Initial retention limits under the CCSB permit are set at 10 BAYS per vessel per trip, 2 swordfish per vessel per trip, and 0 sharks per vessel per trip. Trip limits may be adjusted in the future through the framework procedures codified at § 635.34(b). For BAYS and swordfish, the current size limits and landing restrictions at §§ 635.20 and 635.30, respectively, apply. For sharks, there are no size limits, as there is no current Federal commercial shark size limit; however, current landing restrictions at § 635.30, such as ''fins attached'' requirements, apply. Size limits and landing restrictions would be considered as appropriate under future rulemaking if NMFS were to increase the retention limit above zero fish.

NMFS considered four alternatives regarding HMS fisheries management in the Caribbean Region. The alternatives considered included various combinations of measures ranging from maintaining the status quo to alternative permit specifications on retention limits, vessel sizes, and additional restrictions. A description of the alternatives was provided in the proposed rule and is not repeated here.

If shark trip limits are set above zero in a future rulemaking, applicants for a CCSB permit will be required to complete a NMFS Atlantic Shark Identification Workshop and submit a copy of a valid workshop certificate with their permit application. Additionally, NMFS may require CCSB permit holders to possess a copy of this certificate at every point of shark sale. NMFS would conduct rulemaking to implement these requirements through the framework procedures at § 635.34(b) at the time that the shark trip limits are adjusted.

Comments and Responses

During the proposed rule stage, NMFS received three written comments from the public. NMFS also received comments from the Atlantic HMS Advisory Panel and heard additional comments from constituents who attended the six public hearings held in Puerto Rico, St. Croix, and St. Thomas. A summary of the comments received on the proposed rule during the public comment period is provided below with NMFS' response. All written comments submitted during the comment period can be found at *http://www.regulations.gov/* by searching for RIN 0648–AW83.

Comment 1: NMFS should implement a new CCSB permit for the U.S. Caribbean that authorizes the harvest of fish with the gears and retention limits specified in the preferred alternative. There are substantial differences between segments of the HMS fishery in the Caribbean and the rest of the eastern United States due to limited fishing permits, limited dealer permits, limited profit margins, and markets based on fishermen selling fish directly to the public. These characteristics show that this is a small-scale fishery and should be treated differently.

Response: As reflected in the proposed and final rules and environmental assessment, NMFS recognizes that there are substantial differences between some segments of the HMS fisheries that occur in the U.S. Caribbean and those that occur off the mainland of the United States, including, but not limited to: Few HMS fishing and dealer permits; smaller vessels; limited availability of processing and cold storage facilities; shorter trips; limited profit margins; and high local consumption of catches. For these reasons, consistent with the commenter's observations, NMFS has

created a new permit for this small-scale fishery.

Comment 2: Reporting of commercial fishing activity under the CCSB permit through territorial commercial data collection programs will work well because those programs better fit the markets on the islands where fish are sold directly to the public and not to dealers.

Response: A goal of this rulemaking is improving reporting of commercial fishing activity under the CCSB permit through territorial commercial data collection programs. NMFS recognizes that in fish markets on the islands of the U.S. Caribbean fishermen often sell fish directly to the public. Recent efforts to improve commercial fisheries data collection in the U.S. Caribbean have been made by the territorial governments of Puerto Rico and the U.S. Virgin Islands, working in cooperation with NMFS, to better accommodate the practices in these island markets. Such territorial data collection improvements will be utilized to gather data from fishing trips by vessel owners issued the CCSB permit. NMFS agrees that this system should work well with the island markets, but will monitor the program to continue to look for ways to further improve reporting in the region.

Comment 3: NMFS should require vessel owners to possess territorial government-issued commercial fishing licenses as a pre-requisite for obtaining the CCSB permit. Additionally, territorial commercial fisheries requirements must be met in order to sell fish in the U.S. Virgin Islands and Puerto Rico even if a fisherman holds a new HMS CCSB permit. These territorial requirements include residency requirements to hold a territorial commercial fishing license and reporting of fisheries landings through territorial commercial fisheries reporting programs.

Response: Fishermen operating from and/or landing fish in Puerto Rico or the U.S. Virgin Islands must abide by applicable territorial regulations, including any residency or permitting requirements of that territory. However, NMFS does not require vessel owners to possess territorial government-issued commercial fishing licenses to obtain the federal CCSB permit, because the provisions of the territorial permit, currently or in the future, may not be compatible with federal management requirements. An owner of a vessel with a valid CCSB permit or any other permit issued pursuant to 50 CFR part 635 must agree, as a condition of such permit, to abide by the requirements of 50 CFR part 635 without regard to where the vessel fishes. However, when a vessel fishes within the waters of a territory or state that has more restrictive regulations pertaining to Atlantic HMS, persons aboard the vessel must abide by the territory's or state's more restrictive regulations.

Comment 4: The initial retention limit for BAYS tunas should be more than 10 fish because fishermen sometimes catch more than 10 skipjack and yellowfin tunas on a trip. Also, a larger retention limit may be needed on extended trips to the islands off Puerto Rico, such as Isla Mona and Desecheo, where tunas may be caught over a period of three days, but cannot be landed due to the distances between islands.

Response: NMFS sets the initial retention limit for BAYS tunas under the CCSB permit at 10 fish because information obtained during public scoping and during inquiries of federal enforcement agents in the U.S. Caribbean indicated that fishing trips using handgear (under an Atlantic Tunas General, HMS Charter/Headboat, or HMS Angling permit) rarely land more than 10 yellowfin tunas. Under the preferred alternative, NMFS analyzed a range in the number of BAYS tunas that may be retained, from zero to 24 fish. NMFS may increase or decrease the retention limit in a future rulemaking as necessary while considering the status of BAYS tuna populations and management needs. Improvements in data collection anticipated from this action will enable NMFS to better characterize the fishery, including better understanding the nature of extended fishing trips, and adjust management measures in order to better meet the needs of the commercial small boat HMS fishery in the U.S. Caribbean while sustainably managing those fisheries.

Comment 5: The retention limit for sharks under a new HMS CCSB permit should be set above zero so that some shark landings can occur in federal waters and data can be collected from those landings to supply stock assessments.

Response: NMFS disagrees that shark retention limits under the CCSB permit should be initially set above zero because several shark stocks are overfished and/or overfishing is occurring across their range, which for most shark species extends beyond the U.S. Caribbean. Additional fishing effort on sharks in the Caribbean that may occur if the retention limit is initially set above zero may further deplete shark populations. Data collection to supply shark stock assessments may occur under the existing Atlantic HMS exempted fishing permit and scientific research permit program. In the future, as shark populations recover and can be sustained under increased fishing effort, shark retention limits for the CCSB permit may be increased.

Comment 6: When shark identification workshops are held in the Caribbean, the curriculum should include tuna identification in order to help clarify the use of multiple names for the same tuna species.

Response: In the shark identification workshop curriculum, NMFS includes educational information about various topics that are related to Atlantic HMS fisheries. When future shark identification, or other, workshops are held in the U.S. Caribbean, NMFS will consider including tuna identification information as well.

Comment 7: The CCSB permit should also allow recreational fishing for billfish.

Response: The purpose of the CCSB permit is to better meet the needs of the commercial small boat HMS fishery in the U.S. Caribbean, which are not specifically addressed under existing regulations, and not to exempt fishermen from any of the federal regulations. Current regulations prohibit the retention of Atlantic billfish onboard commercially permitted vessels in order to meet the goals of the rebuilding program established by ICCAT for overfished Atlantic billfish populations. As such, NMFS will not allow the retention of Atlantic billfish onboard commercially permitted vessels as this fails to meet the goals set out by the ICCAT rebuilding plan.

Comment 8: The allowance of 35 buoys per vessel per trip under the CCSB permit is too many for the small boat Caribbean commercial fishery for tunas. Six total buoys per vessel per trip with one hook per buoy is the maximum amount of gear needed.

Response: Vessels may use fewer buoys than the maximum amount allowable under current regulations for the swordfish buoy gear fishery, which allows for the use of up to 35 buoys per vessel per trip. NMFS does not anticipate that the allowance of up to 35 buoys per vessel per trip will cause an excessive amount of fishing pressure on swordfish and BAYS tunas. The allowance of 35 buoys maintains consistency with existing regulations in the commercial swordfish handgear fishery and provides flexibility for CCSB permit holders to use up to 35 buoys.

Comment 9: Implementing Amendment 4 in order to avoid an awkward fit between current federal HMS fishery regulations and the traditional operation of Caribbean fisheries is not a sound basis for exempting any fishing segment from

compliance with U.S. regulations. Efforts should be made to increase compliance with existing federal regulations for HMS.

Response: The CCSB permit and related fisheries regulations in this final rule do not exempt fishing segments from regulation. The specific provisions in this rule are warranted to implement management measures specific to the unique characteristics of the small-boat commercial HMS fishery in the U.S. Caribbean Region. The purpose of this action is to better manage the traditional HMS small boat commercial fishing fleet in the U.S. Caribbean Region, enhance fishing opportunities, improve profits for the fleet, and provide NMFS with an improved capability to monitor and sustainably manage the fishery. During Amendment 4 pre-scoping, scoping, and HMS Advisory Panel meetings, NMFS received numerous comments that described the unique characteristics of the Caribbean region and that supported the purpose of the proposed rule. NMFS and the U.S. Coast Guard continue to enforce all fisheries regulations in the U.S. Caribbean and enlist assistance from territorial governments through joint enforcement agreements. On an ongoing basis, NMFS will review fisheries regulations to see if modifications are needed that would better meet management objectives and make those modifications, including regional considerations, as warranted.

Comment 10: NMFS should increase education programs to permitted dealers in the U.S. Caribbean, thus improving the means for monitoring and management, rather than legitimizing failure to comply with current federal regulations.

Response: NMFS has mass-produced and distributed outreach documents, including Caribbean HMS identification guides and Caribbean HMS outreach brochures summarizing the regulations, to fishermen and other constituents throughout the U.S. Caribbean Region (both in Spanish and English). With Amendment 4, NMFS is not exempting fishermen in any region from federal regulations; rather, NMFS is modifying fishery regulations under the 2006 Consolidated HMS FMP to better meet management objectives and local economic and fishing practice realities, thus encouraging greater regulatory compliance.

Comment 11: Vessel length of 45 ft LOA or less is not a good distinguishing characteristic for small boats in the U.S. Caribbean region, especially if the vessels are supposed to be ''pangas.'' A true ''panga'' ranges from 18 to 28 ft LOA. Preferred alternative 3 should limit vessels eligible for the CCSB permit to no greater than 30 ft LOA if the amendment is targeting traditional fisheries, and especially if the boats are supposed to be ''pangas.''

Response: The U.S. Caribbean HMS fishery is mostly an opportunistic small-scale fishery, lacking any vessels larger than 45 ft LOA. The requirement that vessels eligible for a CCSB permit be less than or equal to 45 ft LOA was developed in response to comments from the U.S. Virgin Islands territorial government during pre-scoping. The U.S. Virgin Islands preferred that HMS regulations not encourage the movement of new commercial fishing vessels to the U.S. Virgin Islands that might, in time, compete with existing small boat commercial fishermen there. NMFS balanced this comment with the need to be as inclusive as possible of commercial fishing vessels that might participate in the U.S. Caribbean HMS small boat fishery. Vessels described as ''pangas'' are only one type of small boat used in this commercial fishery and the amendment is not designed specifically for this one type of small boat.

Comment 12: High fuel prices have shortened fishing trips from the U.S. mainland, thus there are no differences in the length of fishing trips between the U.S. mainland and the U.S. Caribbean.

Response: NMFS received comments during pre-scoping that many HMS fishing trips in the U.S. Caribbean are shorter because they are day trips where commercial fishermen leave port in the morning and return to port by the afternoon. Short trips such as this are only possible in areas where deep water is located close to port, which occurs in only a few locations near the U.S. mainland. The comment mentions that high fuel prices have shortened the trips from the U.S. mainland. Fuel prices in the U.S. Caribbean are normally higher than fuel prices on the U.S. mainland; thus the comment supports the conclusion that economic factors also limit trip length in the U.S. Caribbean.

Comment 13: Increased operating costs have reduced profit margins for operators working out of the mainland, thus limited profit margins are not substantially different in the Caribbean.

Response: This comment addresses NMFS assertion that among other things, profit margins in the U.S. Caribbean are reduced compared to U.S. mainland profit margins as one of the reasons for a Caribbean-specific permit. In the documents associated with this rulemaking, NMFS has analyzed the extent to which increased operating costs have reduced profit margins in commercial HMS fisheries. However, these increased operating costs are in addition to the already low profit margins for fishermen in the U.S. Caribbean that result from the low prices for fish available in local, island markets and high operating costs due to factors such as higher fuel prices in the U.S. Caribbean compared to the U.S. mainland. Thus, NMFS believes that profit margins in the U.S. Caribbean continue to be lower than on the US mainland.

Comment 14: NMFS should consider allowing HMS permits to be valid for more than a year.

Response: The CCSB permit will be valid for one year and may be renewed annually. A longer period of validity would be more likely to result in permit information changing and not being updated by permit holders. NMFS needs to have current permit information in order to make appropriate fishery management decisions and believes that an annual renewal cycle balances the burden on the public and fishery management needs.

Comment 15: NMFS needs to do more outreach and training to local state agencies, Coast Guard and enforcement, so that enforcement agents understand the regulations governing HMS in territorial and federal waters.

Response: NMFS continues to work with its federal partners and state and territorial enforcement agencies under joint enforcement agreements and provides outreach and training as part of those agreements. Outreach and training are important components of effective enforcement of fisheries regulations.

Comment 16: NMFS should evaluate the status of HMS stocks by regions given the different environmental conditions between the Caribbean region and the mainland.

Response: The stocks of most Atlantic HMS span broad areas both within and beyond the Caribbean and regional stock assessments are not appropriate in such cases. A few shark species are found mainly in the Caribbean and in such cases, regional stock assessments may be appropriate and are conducted accordingly as data are available.

Comment 17: NMFS should not authorize sales of HMS to non-seafood dealers because of seafood safety concerns and incompatibility with the United States Food and Drug Administration's (FDA) Hazard, Analysis, and Critical Control Points (HACCP). NMFS should require HMS to be iced properly in order to improve the quality and price of fish.

Response: The FDA published regulations (December 18, 1995; 60 FR 65197) mandating the application of the HACCP principles to ensure the safe and sanitary processing of seafood products. Dealers are responsible for

ensuring product they purchase and sell is in compliance with FDA HACCP regulations.

Changes From the Proposed Rule

The permit name ''HMS Caribbean Small Boat Commercial permit'' was used in the proposed rule and has been changed to ''HMS Commercial Caribbean Small Boat permit'' in this final rule. Minor changes in the wording to the paragraphs found at § 635.4(d)(3), (e)(1), (e)(2), (o)(3) and (o)(5) and § 635.21(e)(3)(i) were made to provide further clarification. A change to add a new paragraph at § 635.71(a)(56) was made to provide further clarification. A minor change to delete the phrase ''After December 31, 2007,'' was made to the paragraph found at § 635.27(c)(l)(i)(A) because the date is no longer needed.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law.

NMFS prepared an environmental assessment for this final rule that discusses the impact on the environment that would result from this rule. In this final action, NMFS is addressing the need to increase the participation of small-scale Caribbean fishing vessels within the HMS permitting and reporting regime in order to better collect catch and effort data and provide for sustainably managed fisheries. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

Pursuant to the procedures established to implement section 6 of E.O. 12866, OMB has determined that this final rule is not significant.

The agency has consulted, to the extent practicable, with appropriate state and local officials to address the principles, criteria, and requirements of Executive Order 13132.

A final regulatory flexibility analysis was prepared. The final regulatory flexibility analysis incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, NMFS's responses to those comments, and a summary of the analyses completed to support the action.

The final regulatory flexibility analysis analyzed the anticipated economic impacts of the final action and any significant economic impacts on small entities. A summary of the final regulatory flexibility analysis is below. The initial and final regulatory flexibility analysis and the analysis of social and economic impacts are available from NMFS (see **ADDRESSES**).

The purpose of this final rulemaking, consistent with the Magnuson-Stevens Act, and the 2006 Consolidated HMS FMP and its amendments, is to enact HMS management measures that better correspond with the traditional operation of the small boat fishing fleet in the U.S. Caribbean Region and to provide NMFS with an improved capability to monitor and sustainably manage those fisheries.

Section 604(a)(2) of the Regulatory Flexibility Act (RFA) requires agencies to summarize significant issues raised by the public in response to the IRFA, a summary of the agency's assessment of such issues, and a statement of any changes made as a result of the comments. We received several comments on the proposed rule and IRFA. Those comments and NMFS' responses to them are mentioned above in the preamble for this rule. In particular, comments 1, 2, 12, and 13 address the rule's economic impacts. There are no substantive changes from the proposed rule as a result of these economic comments.

Section 604(a)(3) of the RFA requires Federal agencies estimate the number of small entities to which the rule will apply. The current Caribbean HMS small-scale fishery is partially comprised of fishermen who currently hold an Atlantic General category or a HMS Charter/headboat category permit and the related industries, including processors, bait houses, and equipment suppliers, all of which we consider to be small entities according to the size standards set by the Small Business Administration. There may also be a few new entrants to the Caribbean small-scale HMS fishery; however, the number of new entrants is expected to be low due to the isolated area, small vessels in the region, limited fishing area, and limited profit margins. The final rule applies to small-scale commercial HMS vessels that fish in the Caribbean Region. In 2010, there were 92 vessels permitted in the Atlantic tunas General category in Puerto Rico and 10 in the U.S. Virgin Islands. In 2010, there were 23 vessels permitted in the Charter/Headboat category in Puerto Rico and 21 in the U.S. Virgin Islands. We anticipate that the universe of fishermen who might purchase and fish under a Caribbean permit will be approximately 100 individuals in the U.S. Caribbean Region, with some potential shift of fishermen currently permitted in the Angling and Charter/Headboat categories.

Under section 604 (a)(4) of the RFA, agencies are required to describe any new reporting, record-keeping, and other compliance requirements in the final rule. This rule does not contain any new reporting requirements, but requires fishermen to apply for a Caribbean permit in a manner similar to the way HMS permit holders apply for their current HMS permits, if they currently hold one.

This final rule does not conflict, duplicate, or overlap with other relevant federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the ACTA, 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. We do not believe that the new regulations duplicate, overlap, or conflict with any relevant regulations, federal or otherwise.

Under section 604(a)(5) of the RFA, agencies are required to describe any alternatives to the rule which accomplish the stated objectives and which minimize any significant economic impacts. Economic impacts are discussed below and in the Environmental Assessment for the action. Additionally, the RFA (5 U.S.C. 603(c) (1)–(4)) lists four general categories of significant alternatives that would assist an agency in developing significant alternatives. These categories of alternatives are: (1) Establishing differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarifying, consolidating, or simplifying compliance and reporting requirements under the rule for such small entities; (3) using performance rather than design standards; and, (4) exempting from coverage of the rule for small entities.

In order to meet the objectives of this final rule, consistent with legal obligations, we cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting requirements (category two above). The relative absence of a dealer structure in the U.S. Caribbean region

restricts where fishermen may legally sell their catches, so they often sell to non-dealers or become individual dealers themselves. This final action modifies existing requirements that may affect small entities and simplifies reporting requirements. As a result, it better accounts for the business practices of Caribbean fishermen by allowing Caribbean small-scale fishermen with the Caribbean permit to directly sell their catches of authorized HMS without possessing a dealer permit, provided that the fishermen report the harvest and sale of these animals to their respective territorial governments, which will report these data to the NMFS SEFSC. Small entities may not be exempted from the final reporting requirements if the objectives of this final rule are to be met, consistent with legal obligations.

We considered and analyzed four alternatives in this Final Environmental Assessment. These alternatives ranged from maintaining the status quo to creating a CCSB permit valid only in the U.S. Caribbean Region, which could allow fishing for and sales of BAYS tunas, swordfish, and Atlantic sharks (excluding sandbar) under specific limitations. Three alternatives were analyzed that would have allowed us to modify retention limits using the framework adjustment procedures codified at § 635.34(b). We assessed the impacts of the alternatives, which are composed of seven key topics, including: permitting/workshop certification; authorized species; retention limit ranges; reporting; authorized gears; vessel size restrictions; and, regions. Instead of analyzing a range of alternatives under individual topics, the final regulatory flexibility analysis considers a number of alternative suites that pull from a range of alternatives under all the topics.

Alternative 1 would, among other things, maintain current Atlantic HMS vessel and dealer permits structure, current upgrading restrictions, current authorized species and gear structure, current retention limits, and, current observer and reporting requirements. Alternative 2 would create a Caribbean permit allowing fishing for and sales of BAYS tunas and Atlantic swordfish under specific limitations. Alternative 3 would create a Caribbean permit allowing fishing for and sales of BAYS tunas, Atlantic swordfish, and Atlantic sharks, under specific limitations. Alternative 3 differs from Alternative 2 in that it could also allow for the retention of Atlantic sharks. Alternative 4 would create a Caribbean permit allowing fishing for and sales of BAYS tunas, Atlantic swordfish, and Atlantic sharks, under specific limitations. Alternative 4 differs from Alternative 3 in that it could allow for higher retention limits of BAYS tunas, Atlantic swordfish, Atlantic sharks, and would not limit vessel size. Under alternatives 2–4, modifications to the initial retention limits could be made using the adjustment procedures codified at § 635.34(b).

Under Alternative 1, we do not anticipate any substantive change in economic impacts, as the small-scale fishermen in the Caribbean Region are already operating under the current regulations. However, this alternative may contribute to a loss of potential income by small-scale fishermen in the Caribbean Region, because these fishermen are limited in their ability to gain access to federal commercial limited access HMS fisheries due to the high costs of obtaining permits considering the low volume of their catch and resulting profit. The relative absence of a dealer structure may cause them to sell to non-dealers or to become individual dealers themselves, which may constitute additional financial burden with regard to the cost of a dealer permit. Therefore, for all the reasons mentioned above, we do not prefer this alternative.

Alternative 2 would allow small-scale fishermen in the Caribbean Region to fish for, retain, and sell BAYS tunas and swordfish. This alternative would codify initial retention limits of 10 BAYS tunas/trip and 2 swordfish/trip, but also provides for a defined range within which the retention limits can be adjusted according to specific management criteria (0 to 24 for BAYS and 0 to 6 for swordfish). Alternative 2 would limit the length of vessels eligible for the Caribbean permit to 45 ft. or less. Based on preliminary scoping for this rulemaking, a trip in which 10 BAYS and/or 2 swordfish are captured is considered a very successful trip for the small-scale fishermen; thus, these were selected as initial retention limits for BAYS tuna and swordfish under this alternative. Atlantic yellowfin tuna and ''tunas'' harvested in the handline fishery may sell for between $1.75/lb and $7.00/lb, depending on quality and local demand. Using Commission conversions for yellowfin tuna, a fish meeting the current U.S. minimum size (27 inches CFL) weighs approximately 14 lb. Therefore, if each fisherman conducted two BAYS tunas trips per month (24 trips/yr.), and landed 10 yellowfin tuna on each trip (240 yellowfin tuna/yr.), then the annual revenue per vessel associated with this activity would range from $5,880.00 (240 yellowfin tuna × 14 lb × $1.75/lb)—$23,520.00 (240 yellowfin tuna × 14 lb × $7.00/lb). Swordfish is currently selling for approximately $4.00 to $6.00 per pound in the Caribbean Region (Lynn Rios, pers. comm.). Using Commission conversions for swordfish, a fish meeting the current U.S. minimum size (47 inches lower jaw fork length) weighs approximately 44 lb. Therefore, if each fisherman conducted two swordfish trips per month (24 trips/yr.), and landed 2 swordfish on each trip (24 swordfish/yr.), then the annual revenue per vessel associated with this activity would range from $4,224.00 (24 swordfish × 44 lb × $4.00/lb)—$6,336.00 (24 swordfish × 44 lb × $6.00/lb). Because we would have authority to adjust the BAYS tunas limits from 0 to 24 fish under Alternative 2, the annual ex-vessel revenue estimates vary, either higher or lower, according to these calculations if the BAYS and swordfish limits were to change. This alternative could result in positive economic impacts for Caribbean small-scale fishermen. The ability to land and sell swordfish under Alternative 2 could increase the profitability of the localized fishery. During the comment period on the proposed rule, commenters requested a higher initial retention limit for BAYS tunas, as sometimes fishermen catch more than 10 BAYS tunas on a trip, as well as include a retention limit for commercial shark fisheries that is above zero per trip. While this alternative provides the Agency the ability to adjust the retention limits as needed and provide positive social and economic benefits, it would provide potential access to the federal commercial shark fishery when stocks rebuild. Therefore, we do not prefer this alternative.

Alternative 3, the preferred alternative, allows Caribbean small-scale fishermen to retain and sell from 0 to 24 BAYS tunas/trip and from 0 to 6 swordfish/trip. This alternative also provides Caribbean small-scale fishermen the capacity to participate in the federal commercial fishery for sharks by establishing a retention limit range of 0 to 3 for non-sandbar large coastal sharks and 0 to 16 for small coastal sharks and pelagic sharks. To be conservative, we are considering setting the initial shark retention limit at 0, with the ability to modify the retention limits once the shark complexes have recovered and the Agency has more data on regional participants, catches, and discards in the Caribbean permit fishery.

With regard to BAYS tunas and swordfish, Alternative 3 would have the same positive economic impacts as Alternative 2 discussed above (BAYS:

$5,880.00–$23,520.00; swordfish: $4224.00–$6,336.00). In the Caribbean, ''shark'' sells for between $1.57/lb and $4.00/lb depending on quality and demand. We would set the initial shark retention limit at 0 under Alternative 3. This could potentially result in some initial negative economic impacts; however, sharks cannot legally be harvested from the U.S. exclusive economic zone without possessing a shark limited access fishing permit. There is a potential for future revenue increases under this alternative because we retain the ability to modify the retention limits once the shark complexes have recovered and the Agency has more data on regional participants, catches, and discards in the Caribbean permit fishery. In addition, during the comment period for the proposed rule, we heard strong support for allowing potential access to the commercial shark fisheries from small-scale HMS fishery participants when shark stocks rebuild. Therefore, allowing Caribbean permit fishermen the ability to participate in the future in the federal commercial shark fishery under this alternative by analyzing a range of retention limits can potentially result in a larger positive economic impact than Alternatives 1 and 2, if a retention limit of greater than zero is authorized in the future. Therefore, based on consideration of public comment and all the reasons described above, we prefer this alternative in the final rule.

Alternative 4 would allow Caribbean small-scale fishermen to retain and sell from between 0 to an unlimited number of BAYS tunas, 0 to an unlimited number of swordfish, 0 to 33 sharks non-sandbar large coastal sharks, and from 0 to an unlimited number of small coastal sharks and pelagic sharks. Under Alternative 4, we would set initial retention limits of 24 BAYS tunas per trip, 6 swordfish per trip, and 1 non-sandbar large coastal shark and 2 small coastal sharks or pelagic sharks combined, with the ability to modify the retention limits once the shark complexes have recovered and the Agency has more data on regional participants, catches, and discards in the Caribbean permit fishery. Additionally, this alternative would not limit the vessel size of participants in the Caribbean permit fishery. If each fisherman conducted two BAYS tunas trips per month (24 trips/yr.), and landed 24 yellowfin tuna on each trip (576 yellowfin tuna/yr.), then the annual revenue per vessel associated with this activity would range from $14,112.00 (576 yellowfin tuna × 14 lb (average weight of a landed yellowfin tuna) × $1.75/lb)—$56,448.00 (576 yellowfin tuna × 14 lb × $7.00/lb). If each fisherman conducted two swordfish trips per month (24 trips/yr.), and landed 6 swordfish on each trip (144 swordfish/yr.), then the annual revenue per vessel associated with this activity would range from $25,344.00 (144 swordfish × 44 lb x $4.00/lb)—$38,016.00 (144 swordfish × 44 lb × $6.00/lb). If each fisherman conducted two shark trips per month (24 trips/yr.), and landed 1 non-sandbar large coastal shark and 2 small coastal sharks on each trip (24 large coastal sharks/yr. & 48 small coastal sharks/yr.), then the annual revenue per vessel associated with this activity would range from $4,296.00 (24 large coastal sharks × 95 lb × $1.57/lb + 48 small coastal sharks × 10 lb × $1.57/lb)—$11,040.00 (24 large coastal sharks × 95 lb × $4.00/lb + 48 small coastal sharks × 10 lb × $4.00/lb). These estimates of annual revenues could be higher if more pelagic sharks were landed due to their larger average size. Because we would have framework authority to adjust the trip limits for BAYS, swordfish, and sharks within the range analyzed under Alternative 4, this alternative could potentially have the largest positive economic impacts when compared with Alternatives 1, 2, and 3 discussed above. However, this alternative could also result in local overcapitalization in the fishery, lead to depressed market prices, and other potentially adverse economic impacts, a concern expressed by small-scale HMS fishermen in the comment period of the proposed rule. Based on public comment and reasons described above, we do not prefer this alternative.

During the public comment period of the proposed rule, one commenter requested to know the economic costs and reporting burden associated with having to buy the new Caribbean permit. The social and economic impacts expected from Alternatives 2, 3, and 4 as a result of fishery participants in the U.S. Caribbean having to purchase the new permit are the same. For instance, if individuals needed to obtain the Caribbean permit, it will cost them a total of $25 on an annual basis. Because fishery participants in the Caribbean region are already reporting to the same existing territorial data collection programs required under the new Caribbean permit, we do not expect any additional reporting burden under any of the alternatives analyzed.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0205). Public reporting burden for the HMS CCSB permit is anticipated to result in an estimated 100 new responses for fishermen who may wish to apply for the new permit and an estimated average of 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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 Office of Management and Budget control number.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. Copies of this final rule and compliance guide are available upon request from NMFS or on the Web page (see **ADDRESSES**).

List of Subjects

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 26, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600 and 635 are to be amended as follows:

PART 600-MAGNUSON–STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.725, in the table in paragraph (v), under the heading ''IX. Secretary of Commerce,'' entry 1, add entry ''N'' to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) * * *

* * * * * * *	
IX. Secretary of Commerce	
1. Atlantic Highly Migratory Species Fisheries (FMP):	
* * * * * * *	
N. Commercial Caribbean Small Boat Fishery	N. Rod and reel, handline, harpoon, bandit gear, green-stick gear, buoy gear.

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. 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.*

■ 4. In § 635.4:

■ a. Revise paragraphs (a)(5), (a)(10), (d)(1), (d)(2), (d)(3), (e)(1), (e)(2), (f)(1), (f)(2), (g)(1), (g)(2), (g)(3), (h)(1) introductory text, (m)(1), and (m)(2); and

■ b. Add paragraph (o).

The revisions and addition read as follows:

§ 635.4 Permits and fees.

* * * * *

(a) * * *

(5) *Display upon offloading.* Upon offloading of Atlantic HMS, the owner or operator of the harvesting vessel must present for inspection the vessel's HMS Charter/Headboat permit; Atlantic tunas, shark, or swordfish permit; Incidental HMS squid trawl; HMS Commercial Caribbean Small Boat permit; and/or the shark research permit to the first receiver. The permit(s) must be presented prior to completing any applicable landing report specified at § 635.5(a)(1), (a)(2), and (b)(2)(i).

* * * * *

(10) *Permit condition.* An owner of a vessel with a valid swordfish, shark, HMS Angling, HMS Charter/Headboat, Incidental HMS squid trawl, or HMS Commercial Caribbean Small Boat permit issued pursuant to this part must agree, as a condition of such permit, that the vessel's HMS fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the U.S. EEZ, or outside the U.S. EEZ, and without regard to where such HMS, or gear, are possessed, taken, or landed. However, when a vessel fishes within the waters of a state that has more restrictive regulations pertaining to HMS, persons aboard the vessel must abide by the state's more restrictive regulations.

* * * * *

(d) *Atlantic Tunas vessel permits.* (1) The owner of each vessel used to fish for or take Atlantic tunas commercially or on which Atlantic tunas are retained or possessed with the intention of sale must obtain an HMS Charter/Headboat permit issued under paragraph (b) of this section, an HMS Commercial Caribbean Small Boat permit issued under paragraph (o) of this section, or an Atlantic tunas permit in one, and only one, of the following categories: General, Harpoon, Longline, Purse Seine, or Trap.

(2) Persons aboard a vessel with a valid Atlantic Tunas, HMS Angling, HMS Charter/Headboat, or an HMS Commercial Caribbean Small Boat permit may fish for, take, retain, or possess Atlantic tunas, but only in compliance with the quotas, catch limits, size classes, and gear applicable to the permit or permit category of the vessel from which he or she is fishing. Persons may sell Atlantic tunas only if the harvesting vessel has a valid permit in the General, Harpoon, Longline, Purse Seine, or Trap category of the Atlantic Tunas permit, a valid HMS Charter/Headboat, or an HMS Commercial Caribbean Small Boat permit.

(3) A vessel issued an Atlantic Tunas permit in any category for a fishing year shall not be issued an HMS Angling permit, HMS Charter/Headboat permit, or an Atlantic Tunas permit in any other category for that same fishing year, regardless of a change in the vessel's ownership. A vessel issued an Atlantic Tunas permit may be issued an HMS Commercial Caribbean Small Boat permit, subject to restrictions set forth at § 635.4(o), within that same fishing year; however, a vessel may not hold any other HMS fishing permit simultaneously with the HMS Commercial Caribbean Small Boat permit.

* * * * *

(e) * * *

(1) The owner of each vessel used to fish for or take Atlantic sharks or on which Atlantic sharks are retained, possessed with an intention to sell, or sold must obtain, in addition to any other required permits, at least one of the Federal Atlantic commercial shark permits described below or an HMS Commercial Caribbean Small Boat permit. A Federal Atlantic commercial shark permit or HMS Commercial Caribbean Small Boat permit is not required if the vessel is recreationally fishing and retains no more sharks than the recreational retention limit specified in § 635.22(c), is operating pursuant to the conditions of a shark display or EFP issued pursuant to § 635.32, or fishes exclusively within State waters. It is a rebuttable presumption that the owner or operator of a vessel without a permit issued pursuant to this part, on which sharks are possessed in excess of the recreational retention limits, intends to sell the sharks.

(2) The owner of vessels that fish for, take, retain, or possess the Atlantic oceanic sharks listed in sections A, B, or C of Table 1 of Appendix A with an intention to sell must obtain a Federal Atlantic commercial shark directed or incidental limited access permit or an HMS Commercial Caribbean Small Boat

permit. The only valid Federal commercial shark directed and shark incidental limited access permits are those that have been issued under the limited access program consistent with the provisions under paragraphs (l) and (m) of this section.

* * * * *

(f) * * *

(1) Except as specified in paragraphs (n) and (o) of this section, the owner of each vessel used to fish for or take Atlantic swordfish or on which Atlantic swordfish are retained or possessed with an intention to sell or from which Atlantic swordfish are sold must obtain, in addition to any other required permits, only one of three types of commercial limited access swordfish permits: Swordfish directed limited access permit, swordfish incidental limited access permit, or swordfish handgear limited access permit. It is a rebuttable presumption that the owner or operator of a vessel on which swordfish are possessed in excess of the recreational retention limits intends to sell the swordfish.

(2) The only valid commercial Federal vessel permits for swordfish are those that have been issued under the limited access program consistent with the provisions under paragraphs (l) and (m) of this section, or those issued under paragraphs (n) and (o) of this section.

* * * * *

(g) * * *

(1) *Atlantic tunas.* A dealer, as defined under § 600.10 of this chapter, must possess a valid federal Atlantic tunas dealer permit to purchase, trade, or barter any Atlantic tunas except as noted under paragraph (o) of this section.

(2) *Shark.* A dealer, as defined in § 600.10 of this chapter, must possess a valid federal Atlantic shark dealer permit to purchase, trade, or barter any Atlantic shark listed in Table 1 of Appendix A of this part except as noted under paragraph (o) of this section.

(3) *Swordfish.* A dealer, as defined under § 600.10 of this chapter, must possess a valid federal Atlantic swordfish dealer permit to purchase, trade, or barter any Atlantic swordfish except as noted under paragraph (o) of this section.

(h) * * *

(1) Atlantic Tunas, HMS Angling, HMS Charter/Headboat, Incidental HMS squid trawl, and HMS Commercial Caribbean Small Boat vessel permits.

* * * * *

(m) * * *

(1) *General.* Persons must apply annually for a dealer permit for Atlantic tunas, sharks, and swordfish, and for an Atlantic HMS Angling, HMS Charter/Headboat, tunas, shark, swordfish, Incidental HMS squid trawl, or HMS Commercial Caribbean Small Boat vessel permit. Except as specified in the instructions for automated renewals, persons must submit a renewal application to NMFS, along with a copy of the applicable valid workshop certificate or certificates, if required pursuant to § 635.8, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. NMFS will renew a permit if the specific requirements for the requested permit are met, including those described in paragraphs (h)(1)(iv) and (l)(2) of this section; all reports required under the Magnuson-Stevens Act and ATCA have been submitted, including those described in §§ 635.5 and 300.185 of this title; the applicant is not subject to a permit sanction or denial under paragraph (a)(6) of this section; and the workshop requirements specified in § 635.8 are met.

(2) *Shark and swordfish LAPs.* The owner of a vessel of the U.S. that fishes for, possesses, lands or sells shark or swordfish from the management unit, or that takes or possesses such shark or swordfish as incidental catch, must have the applicable limited access permit(s) issued pursuant to the requirements in paragraphs (e) and (f) of this section, except as specified in paragraphs (n) and (o) of this section. Only persons holding non-expired shark and swordfish limited access permit(s) in the preceding year are eligible to renew those limited access permit(s). Transferors may not renew limited access permits that have been transferred according to the procedures in paragraph (l) of this section.

* * * * *

(o) *HMS Commercial Caribbean Small Boat permits.* (1) The owner of a vessel who fishes in the U.S. Caribbean, as defined at § 622.2 of this chapter, possesses handgear or green-stick gear and retains, with the intention to sell, any BAYS tunas, Atlantic swordfish, or Atlantic sharks may obtain an HMS Commercial Caribbean Small Boat permit. An HMS Commercial Caribbean Small Boat permit is valid only within the U.S. Caribbean, as defined at § 622.2 of this chapter.

(2) To be eligible for an HMS Commercial Caribbean Small Boat permit, vessel owners must provide documentation that the vessel is less than or equal to 13.7 m (45 ft) in length overall.

(3) A vessel issued an HMS Commercial Caribbean Small Boat permit may not be issued any other HMS fishing permit, except those issued under § 635.32, as long as the HMS Commercial Caribbean Small Boat permit is valid.

(4) The owner of a vessel issued an HMS Commercial Caribbean Small Boat permit may fish for, take, retain, or possess only BAYS tunas, Atlantic swordfish, and Atlantic sharks, subject to the trip limits specified at § 635.24 and may possess unauthorized gears onboard as stated at § 635.21(b).

(5) HMS landed under an HMS Commercial Caribbean Small Boat permit may be sold by the owner or operator to individuals who do not possess a valid HMS dealer permit otherwise required under § 635.4(g). HMS Commercial Caribbean Small Boat permit holders may not sell HMS harvested or landed by another vessel or purchase, barter, or trade for HMS harvested by other vessels with the intent to sell.

■ 5. In § 635.21, revise paragraphs (b), (e)(1) introductory text, (e)(3)(i), and (e)(4)(iii) and (iv) to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(b) *General.* No person may fish for, catch, possess, or retain any Atlantic HMS with gears other than the primary gears specifically authorized in this part. Consistent with paragraphs (a)(1) and (2) of this section, secondary gears may be used at boat side to aid and assist in subduing, or bringing on board a vessel, Atlantic HMS that have first been caught or captured using primary gears. For purposes of this part, secondary gears include, but are not limited to, dart harpoons, gaffs, flying gaffs, tail ropes, etc. Secondary gears may not be used to capture, or attempt to capture, free-swimming or undersized HMS. Except for vessels permitted under § 635.4(o) or as specified in this paragraph (b), a vessel using or having onboard in the Atlantic Ocean any unauthorized gear may not possess an Atlantic HMS on board.

* * * * *

(e) * * *

(1) *Atlantic tunas.* A person that fishes for, retains, or possesses an Atlantic bluefin tuna (BFT) may not have on board a vessel or use on board a vessel any primary gear other than those authorized for the category for which the Atlantic tunas or HMS permit has been issued for such vessel. Primary gears are the gears specifically authorized in this section. When fishing for Atlantic tunas other than BFT, primary gear authorized for any Atlantic Tunas permit category may be used,

except that purse seine gear may be used only on board vessels permitted in the Purse Seine category and pelagic longline gear may be used only on board vessels issued an Atlantic Tunas Longline category tuna permit, a LAP other than handgear for swordfish, and a LAP for sharks. A person issued an HMS Commercial Caribbean Small Boat permit who fishes for, retains, or possesses BAYS tunas in the U.S. Caribbean, as defined at § 622.2, may have on board and use handline, harpoon, rod and reel, bandit gear, green-stick gear, and buoy gear.

* * * * *

(3) * * *

(i) No person may possess a shark in the EEZ taken from its management unit without a permit issued under § 635.4. No person issued a Federal Atlantic commercial shark permit under § 635.4 may possess a shark taken by any gear other than rod and reel, handline, bandit gear, longline, or gillnet. No person issued an HMS Commercial Caribbean Small Boat permit may possess a shark taken from the U.S. Caribbean, as defined at § 622.2, by any gear other than with rod and reel, handline or bandit gear. No person issued an HMS Angling permit or an HMS Charter/headboat permit under § 635.4 may possess a shark if the shark was taken from its management unit by any gear other than rod and reel or handline, except that persons on a vessel issued both an HMS Charter/Headboat permit and a Federal Atlantic commercial shark permit may possess sharks taken with rod and reel, handline, bandit gear, longline, or gillnet if the vessel is not engaged in a for-hire fishing trip.

* * * * *

(4) * * *

(iii) A person aboard a vessel issued or required to be issued a valid directed handgear LAP for Atlantic swordfish or an HMS Commercial Caribbean Small Boat permit may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when the fish is on board or offloaded from a vessel using or having on board longline gear. Only vessels that have been issued, or that are required to have been issued, a valid directed or handgear swordfish LAP or an HMS Commercial Caribbean Small Boat permit under this part may utilize or possess buoy gear. Vessels utilizing buoy gear may not possess or deploy more than 35 floatation devices, and may not deploy more than 35 individual buoy gears per vessel. Buoy gear must be constructed and deployed so that the hooks and/or gangions are attached to the vertical portion of the mainline. Floatation devices may be attached to one but not both ends of the mainline, and no hooks or gangions may be attached to any floatation device or horizontal portion of the mainline. If more than one floatation device is attached to a buoy gear, no hook or gangion may be attached to the mainline between them. Individual buoy gears may not be linked, clipped, or connected together in any way. Buoy gears must be released and retrieved by hand. All deployed buoy gear must have some type of monitoring equipment affixed to it including, but not limited to, radar reflectors, beeper devices, lights, or reflective tape. If only reflective tape is affixed, the vessel deploying the buoy gear must possess on board an operable spotlight capable of illuminating deployed floatation devices. If a gear monitoring device is positively buoyant, and rigged to be attached to a fishing gear, it is included in the 35 floatation device vessel limit and must be marked appropriately.

(iv) Except for persons aboard a vessel that has been issued a limited access North Atlantic swordfish permit, Incidental HMS squid trawl permit, or an HMS Commercial Caribbean Small Boat permit under § 635.4, no person may fish for North Atlantic swordfish with, or possess a North Atlantic swordfish taken by, any gear other than handline or rod and reel.

* * * * *

■ 6. In § 635.24, revise the section heading and add paragraphs (a)(4)(iv), (b)(3), and (c) to read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

(a) * * *

(4) * * *

(iv) A person who owns or operates a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may retain, possess, or land any LCS, SCS or pelagic sharks only when the HMS Commercial Caribbean Small Boat permit trip limit is set above zero. The current shark trip limit for HMS Commercial Caribbean Small Boat permit holders is set at zero.

* * * * *

(b) * * *

(3) Persons aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat vessel permit may retain, possess, land, or sell no more than 2 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat.

(c) BAYS tunas. Persons aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit under § 635.4 may retain, possess, land, or sell no more than 10 BAYS tunas per vessel per trip.

■ 7. In § 635.27, revise paragraph (c)(1)(i)(A) to read as follows:

§ 635.27 Quotas.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) A swordfish from the North Atlantic stock caught prior to the directed fishery closure by a vessel for which a directed fishery permit, or a handgear permit for swordfish, or an HMS Commercial Caribbean Small Boat permit has been issued or is required to be issued is counted against the directed fishery quota. The total baseline annual fishery quota, before any adjustments, is 2,937.6 mt dw for each fishing year. Consistent with applicable ICCAT recommendations, a portion of the total baseline annual fishery quota may be used for transfers to another ICCAT contracting party. The annual directed category quota is calculated by adjusting for over- or underharvests, dead discards, any applicable transfers, the incidental category quota, the reserve quota and other adjustments as needed, and is subdivided into two equal semi-annual: one for January 1 through June 30, and the other for July 1 through December 31.

* * * * *

■ 8. In § 635.31, revise paragraphs (a)(1), (a)(2)(ii), and (d)(1) to read as follows:

§ 635.31 Restrictions on sale and purchase.

(a) * * *

(1) A person that owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat permit; a valid General, Harpoon, Longline, Purse Seine, or Trap category permit for Atlantic tunas; or a valid HMS Commercial Caribbean Small Boat permit issued under this part. However, no person may sell a BFT smaller than the large medium size class. Also, no large medium or giant BFT taken by a person aboard a vessel with an Atlantic HMS Charter/Headboat permit fishing in the Gulf of Mexico at any time, or fishing outside the Gulf of Mexico when the fishery under the General category has been closed, may be sold (see § 635.23(c)). A person may sell Atlantic bluefin tuna only to a dealer that has a valid permit for purchasing Atlantic bluefin tuna issued under this part. A person may not sell or purchase Atlantic tunas harvested with speargun fishing gear.

* * * * *

(2) * * *

(ii) Dealers may first receive BAYS tunas only if they have submitted reports to NMFS according to reporting requirements of paragraphs § 635.5(b)(1)(ii) and only from a vessel that has a valid Federal commercial permit for Atlantic tunas issued under this part in the appropriate category. Individuals issued a valid HMS Commercial Caribbean Small Boat permit, and operating in the U.S. Caribbean as defined at § 622.2, may sell their trip limits of BAYS tunas, codified at § 635.24(c), to dealers and non-dealers.

* * * * *

(d) * * *

(1) Persons that own or operate a vessel on which a swordfish in or from the Atlantic Ocean is possessed may sell such swordfish only if the vessel has a valid commercial permit for swordfish issued under this part. Persons may offload such swordfish only to a dealer who has a valid permit for swordfish issued under this part; except that individuals issued a valid HMS Commercial Caribbean Small Boat permit, and operating in the U.S. Caribbean as defined at § 622.2, may sell swordfish, as codified at § 635.24(b)(3), to non-dealers.

* * * * *

■ 9. In § 635.71:

■ a. Revise paragraphs (a)(3), (a)(4), and (a)(53);

■ b. Add paragraph (a)(56); and

■ c. Revise paragraphs (e)(1), (e)(10), (e)(11), and (e)(16).

The revisions and addition read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(3) Purchase, receive, or transfer or attempt to purchase, receive, or transfer, for commercial purposes, Atlantic bluefin tuna landed by owners of vessels not permitted to do so under § 635.4, or purchase, receive, or transfer, or attempt to purchase, receive, or transfer Atlantic bluefin tuna without the appropriate valid Federal Atlantic tunas dealer permit issued under § 635.4. Purchase, receive, or transfer or attempt to purchase, receive, or transfer, for commercial purposes, other than solely for transport, any BAYS tunas, swordfish, or sharks landed by owners of vessels not permitted to do so under § 635.4, or purchase, receive, or transfer, or attempt to purchase, receive, or transfer, for commercial purposes, other than solely for transport, any BAYS tunas, swordfish, or sharks without the appropriate valid dealer permit issued under § 635.4 or submission of reports by dealers to NMFS according to reporting requirements specified in § 635.5. This prohibition does not apply to HMS harvested by HMS Commercial Caribbean Small Boat vessel permit holders operating in the U.S. Caribbean as defined at § 622.2 or to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

(4) Sell or transfer or attempt to sell or transfer, for commercial purposes, an Atlantic tuna, shark, or swordfish other than to a dealer that has a valid dealer permit issued under § 635.4, except that this does not apply to HMS Commercial Caribbean Small Boat vessel permit holders operating in the U.S. Caribbean as defined at § 622.2, or to a shark harvested by a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

* * * * *

(53) Fish for, catch, possess, retain, or land an Atlantic swordfish using, or captured on, ''buoy gear'' as defined at § 635.2, unless the vessel owner has been issued a swordfish directed limited access permit or a swordfish handgear limited access permit in accordance with § 635.4(f) or a valid HMS Commercial Caribbean Small Boat permit in accordance with § 635.4(o).

* * * * *

(56) Have been issued a valid HMS Commercial Caribbean Small Boat permit and to purchase, barter for, or trade for HMS harvested by other vessels with the intent to sell.

* * * * *

(e) * * *

(1) Purchase, barter for, or trade for a swordfish from the north or south Atlantic swordfish stock without a dealer permit as specified in § 635.4(g), unless the harvesting vessel possesses a valid HMS Commercial Caribbean Small Boat permit issued under § 635.4 of this part and harvested the swordfish in the U.S. Caribbean as defined at § 622.2.

* * * * *

(10) Fish for, catch, possess, retain, or land an Atlantic swordfish using, or captured on, ''buoy gear'' as defined at § 635.2, unless the vessel owner has been issued a swordfish directed limited access permit or a swordfish handgear limited access permit in accordance with § 635.4(f) or a valid HMS Commercial Caribbean Small Boat permit in accordance with § 635.4(o).

(11) As the owner of a vessel permitted, or required to be permitted, in the swordfish directed, swordfish handgear limited access permit category, or issued a valid HMS Commercial Caribbean Small Boat permit and utilizing buoy gear, to possess or deploy more than 35 individual floatation devices, to deploy more than 35 individual buoy gears per vessel, or to deploy buoy gear without affixed monitoring equipment, as specified at § 635.21(e)(4)(iii).

* * * * *

(16) Possess any HMS, other than Atlantic swordfish, harvested with buoy gear as specified at § 635.21(e) unless issued a valid HMS Commercial Caribbean Small Boat permit and operating within the U.S. Caribbean as defined at § 622.2.

* * * * *

[FR Doc. 2012–24136 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 110620343–2450–02]

RIN 0648–BB18

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 97

ACTION: Final rule.

SUMMARY: NMFS publishes regulations to implement Amendment 97 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). Amendment 97 allows the owner of a trawl catcher/processor vessel authorized to participate in the Amendment 80 catch share program to replace that vessel with a vessel that meets certain requirements. This action establishes the regulatory process for replacement of vessels in the Amendment 80 fleet and the requirements for Amendment 80 replacement vessels, such as a limit on the overall length of a replacement vessel, a prohibition on the use of an AFA vessel as a replacement vessel, measures to prevent a replaced vessel from participating in Federal groundfish fisheries off Alaska that are not Amendment 80 fisheries, and measures that extend specific catch limits (known as Amendment 80 sideboards) to a replacement vessel. This action is necessary to promote safety-at-sea by allowing Amendment 80 vessel owners to replace their vessels for any reason at any time and by requiring replacement

vessels to meet certain U.S. Coast Guard vessel safety standards, and to improve the retention and utilization of groundfish catch by these vessels by facilitating an increase in the processing capabilities of the fleet. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Effective October 31, 2012.

ADDRESSES: Electronic copies of this rule, the Environmental Assessment (EA), Regulatory Impact Review (RIR), and the initial regulatory flexibility analysis (IRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) in the Exclusive Economic Zone (EEZ) under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

This final rule implements Amendment 97 to the FMP. Under this final rule, the owner of a trawl catcher/processor vessel authorized to participate in the Amendment 80 catch share program is allowed to replace that vessel with a vessel that meets certain requirements. NMFS published the Notice of Availability for Amendment 97 in the **Federal Register** on March 6, 2012 (77 FR 13253), with a 60-day comment period that ended May 7, 2012. The Secretary approved Amendment 97 on June 6, 2012, after determining that Amendment 97 is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. NMFS published a proposed rule for Amendment 97 in the **Federal Register** on April 4, 2012 (77 FR 20339). The 30-day comment period on the proposed rule ended May 4, 2012. NMFS received a total of 15 comment letters from 11 unique persons during the comment periods on Amendment 97 and the proposed rule implementing the amendment. The letters contained 13 separate topics. A summary of these comments and NMFS's responses are provided in the Comments and Responses section of this preamble.

Elements of the Final Rule

A detailed review of the provisions of Amendment 97 and its implementing regulations is provided in the preamble to the proposed rule (77 FR 20339, April 4, 2012) and is not repeated here. The proposed rule is available from the NMFS Alaska Region Web site (see **ADDRESSES**). The preamble to this final rule provides a brief review of the regulatory changes made by this final rule to the management of the Amendment 80 fleet and an explanation of any differences between the proposed and final regulations. NMFS' responses to public comments on Amendment 97 and the proposed rule to implement Amendment 97 are also presented below.

This final rule establishes regulations that permit the owner of an Amendment 80 vessel to replace that vessel with up to one other vessel for any reason and at any time. The vessel replacement process established by this final rule provides Amendment 80 vessel owners with the flexibility to incorporate a broad range of processing opportunities that are not currently available on all vessels. Regulations implemented by this final rule are intended to facilitate improved retention and utilization of catch by the Amendment 80 sector through vessel upgrades and new vessel construction. This final rule also is intended to address the regulatory deficiencies that were identified by the court in *Arctic Sole Seafoods* v. *Gutierrez,* 622 F. Supp. 2d 1050 (W.D. Wash. 2008). Specifically, this final rule: (1) Allows Amendment 80 vessels to be replaced for any reason at any time, up to a one-for-one vessel replacement; (2) prohibits American Fisheries Act (AFA) vessels from being used as Amendment 80 replacement vessels; (3) establishes a maximum vessel length for Amendment 80 replacement vessels and modifies the maximum length over-all (MLOA) on License Limitation Program (LLP) licenses assigned to Amendment 80 replacement vessels; (4) establishes a process for reassigning an Amendment 80 Quota Share (QS) permit to either an Amendment 80 replacement vessel or an Amendment 80 LLP license; (5) imposes sideboard limitations on replaced vessels; (6) applies Gulf of Alaska (GOA) sideboard measures to an Amendment 80 replacement vessel if GOA sideboard measures applied to the Amendment 80 vessel being replaced, with exceptions for the F/V *Golden Fleece;* (7) establishes specific regulatory restrictions and requirements that apply to any vessel that replaces the F/V *Golden Fleece;* (8) allows an Amendment 80 replacement vessel to conduct directed fishing for GOA flatfish if the Amendment 80 vessel being replaced was authorized to conduct directed fishing for GOA flatfish; (9) requires an owner to demonstrate to NMFS an Amendment 80 replacement vessel's compliance with U.S. Coast Guard safety requirements; and (10) establishes a process by which a vessel owner can apply to NMFS for approval to use an Amendment 80 replacement vessel in the Amendment 80 sector. Finally, this action demonstrates to the U.S. Maritime Administration (MARAD) that the Council and NMFS have authorized Amendment 80 replacement vessels to exceed specific vessel limits set forth in the AFA and therefore Amendment 80 replacement vessels that exceed these limits are eligible to receive a certificate of documentation consistent with 46 U.S.C. 12113 and MARAD regulations at 46 CFR 356.47.

Replacement for Any Reason at Any Time, Up to One-for-One Vessel Replacement

The regulations implemented by this final rule, at § 679.4(o)(1)(v) and (vii), allow an owner of an Amendment 80 vessel to replace the vessel for any reason and at any time up to a one-for-one vessel replacement. The Council determined, and NMFS agrees, that a vessel owner is best-suited to determine the appropriate time to replace a vessel, and that the vessel owner should be afforded broad discretion as to the reasons supporting vessel replacement. This final rule enables a vessel owner to initiate new construction of a replacement vessel while the vessel to be replaced is still active (*i.e.,* before it is lost), providing an opportunity for a potentially seamless replacement process and thereby reducing potential costs associated with foregone harvests.

Although the owner of an Amendment 80 vessel can apply to use an existing Amendment 80 vessel as an Amendment 80 replacement vessel, or other vessels that otherwise meet the requirements of this final rule, the

Council and NMFS anticipate that most replacement vessels will be newly constructed and larger than the vessel being replaced. Many of the existing vessels in the Amendment 80 fleet were originally constructed for purposes other than fishing; therefore, these vessels may be less well-designed for fishing than a new, purposefully constructed fishing vessel would be. A vessel built to contemporary standards is likely have improved hold capacity, fuel efficiency, and harvest capacity relative to existing similarly sized vessels in the Amendment 80 fleet. Such modifications can enable a vessel operator to store large quantities of fish and create or make value-added products like surimi, fillets, and fishmeal in onboard fishmeal plants. Replacing a smaller vessel with a larger vessel could allow participants to fish for longer periods of time and reduce the number of trips required to offload products. As an alternative to new vessel construction, this final rule also enables the owner of an Amendment 80 vessel to replace an aging or underperforming vessel with an existing vessel, including a vessel currently prosecuting Amendment 80 fisheries. As described below, this final rule requires all Amendment 80 replacement vessels, including vessels that are currently participating in an Amendment 80 fishery, to meet contemporary vessel construction and safety standards, and other applicable regulations established by this final rule. A detailed review of the Amendment 80 fleet safety regulations implemented by this final rule also can be found in Section 2.4.9.1 of the EA/RIR/IRFA for this action and in the preamble to the proposed rule (see **ADDRESSES**).

Although an Amendment 80 vessel owner is authorized to replace the vessel at any time for any reason, the final rule limits the number of replacement vessels an owner may have, requiring that each Amendment 80 vessel may be replaced by no more than one vessel at any given time. Under the Amendment 80 program, NMFS determined that 28 vessels met the criteria for participation and therefore were eligible to participate in the Amendment 80 sector. Under this final rule, in no case could more than 28 vessels participate in the Amendment 80 fisheries at any given time.

American Fisheries Act Vessels and Amendment 80 Vessel Replacement

This final rule includes a provision that prohibits the use of AFA vessels as Amendment 80 replacement vessels. The following paragraphs provide the background for and an explanation of this provision.

Regulations implementing Amendment 80 limited participation in the Amendment 80 sector to non-AFA trawl catcher/processors that qualified under the definition of the non-AFA trawl catcher/processor subsector in section 219(a)(7) of the BSAI Catcher Processor Capacity Reduction Program (CRP), included in the Department of Commerce and Related Agencies Appropriations Act, 2005 (Pub. L. 108–447). Section 219(g)(1)(A) of the CRP provides that only a member of a catcher/processor subsector may participate in the catcher/processor sector of the BSAI non-pollock groundfish fishery. Four catcher processor subsectors are defined by the CRP, including the AFA trawl catcher processor subsector at section 219(a)(1) and the non-AFA trawl catcher processor subsector at section 219(a)(7). Section 219(a)(7) of the CRP defines the ''non-AFA trawl catcher processor subsector'' as ''the owner of each trawl catcher processor—(A) that is not an AFA trawl catcher processor; (B) to whom a valid LLP license that is endorsed for Bering Sea or Aleutian Islands trawl catcher processor fishing activity has been issued; and (C) that the Secretary determines has harvested with trawl gear and processed not less than a total of 150 metric tons of non-pollock groundfish during the period January 1, 1997 through December 31, 2002.'' NMFS determined that 28 vessels met the criteria specified in section 219(a)(7) of the CRP. NMFS listed these vessels in the final rule implementing Amendment 80 (September 14, 2007; 72 FR 52668). NMFS concluded that because the CRP set forth the criteria for vessels eligible to participate in the non-AFA trawl catcher/processor, or Amendment 80, sector, only the 28 listed vessels could be used in the Amendment 80 sector and only a listed qualifying vessel could be used to replace an originally qualifying vessel.

Arctic Sole Seafoods challenged the final rule, arguing that section 219(a)(7) permitted the replacement of qualifying vessels with non-qualifying vessels and that the prohibition on such replacement was contrary to the language of the CRP. On May 19, 2008, the U.S. District Court for the Western District of Washington issued a decision invalidating those Amendment 80 regulatory provisions that limited the vessels used in the Amendment 80 sector to only those vessels that meet the qualification criteria in section 219(a)(7) of the CRP. In *Arctic Sole Seafoods* v. *Gutierrez,* 622 F.Supp.2d 1050 (W.D. Wash. 2008), the court found the statutory language ambiguous as to whether replacement of qualifying vessels with non-qualifying vessels was permissible, and found the agency's interpretation of the statute to be arbitrary and capricious. The court held that the CRP applies to the owners of vessels that meet the statutory criteria for the non-AFA trawl catcher/processor subsector, and that the owner of a qualifying vessel could replace that vessel with a non-qualifying vessel. The court noted that Congress, through the CRP, limited the universe of owners authorized to participate in the BSAI non-pollock groundfish fishery by limiting eligibility to those individuals who own vessels with a particular catch history and who have a particular license, but that nothing in the CRP indicated that Congress was concerned with which particular vessels are used in the BSAI non-pollock groundfish fishery. The court determined that an owner of a non-AFA trawl catcher/processor vessel must satisfy the criteria specified in section 219(a)(7) to originally qualify for the non-AFA trawl catcher/processor subsector and the Amendment 80 sector, but the owner of such a vessel may replace that vessel with a vessel that does not meet the original qualifying criteria of the CRP but that is otherwise eligible to participate in the BSAI non-pollock groundfish fishery. The court concluded that the inability to replace a qualifying vessel with a non-qualifying vessel would ultimately result in the elimination of the sector through vessel attrition, and that Congress had not intended such an outcome in the CRP. The court ordered that ''[t]o the extent that [regulations] restrict access to the BSAI non-pollock groundfish fishery to qualifying vessels without allowing a qualified owner to replace a lost qualifying vessel with a single substitute vessel, the regulations must be set aside * * *.''

After receiving the court's decision, NMFS immediately developed and issued interim guidance for vessel replacement consistent with the court's decision. In October 2008, NMFS asked the Council to amend the FMP to clarify the conditions under which an Amendment 80 vessel may be replaced consistent with the court's decision, the CRP, and the Magnuson-Stevens Act. In response, the Council initiated development of Amendment 97. The Council initially received an analysis for Amendment 97 at its February 2010 meeting. This analysis included a summary of the interim guidance NMFS prepared for vessel replacement, including a revised version of the

responses to frequently asked questions contained within the guidance. In response to the question of whether there are any limitations on the characteristics of a replacement vessel, the analysis states, ''Because the CRP makes a clear distinction between the AFA and non-AFA trawl catcher/processor subsectors, an AFA catcher/processor as defined by the CRP would be ineligible to fish as a non-AFA trawl catcher/processor and could not replace an Amendment 80 vessel.'' No additional explanation for this statement is provided in the analysis. This statement remained in the analysis during the Council's consideration of Amendment 97, the interpretation of the CRP was not challenged during the Council process, the Council did not consider an alternative that would allow the use of AFA vessels as Amendment 80 replacement vessels, and thus the analysis does not include an evaluation of those considerations. As a result, the Council did not recommend a prohibition or other limitation on the use of an AFA vessel as an Amendment 80 replacement vessel in its final motion on Amendment 97 in June 2010.

In February 2012, before the start of Secretarial review of Amendment 97, NMFS received a letter from a member of the public asserting that the CRP and the court's decision in *Arctic Sole Seafoods* v. *Gutierrez* do not prohibit the use of an AFA vessel as an Amendment 80 replacement vessel. The commenter stated that ''[t]he distinction the CRP draws between AFA and non-AFA vessels is only for purposes of specifying which vessels owners initially qualified for the Amendment 80 sector'' and that while an owner of a vessel had to meet the criteria specified in section 219(a)(7) to initially qualify for the non-AFA trawl catcher/processor subsector, including the criterion that the vessel not be an AFA trawl catcher/processor, ''[t]he CRP does not limit the universe of vessels that a qualified owner may then draw from to replace the vessel through which it initially entered the Amendment 80 sector.''

In the proposed rule preamble, the agency advised that following receipt of the letter, it re-examined the CRP and decision in *Arctic Sole Seafoods* v. *Gutierrez* regarding whether the CRP prohibits use of an AFA vessel as an Amendment 80 replacement vessel. Based on that re-examination, it stated in the preamble its view that the CRP did not prohibit use of an AFA vessel, and that in the absence of an explicit regulatory prohibition recommended by the Council, the rule as proposed did not prohibit use of an AFA vessel. NMFS invited the public to comment on the proposed rule, including the potential use of AFA vessels as Amendment 80 replacement vessels.

During the public comment periods for Amendment 97 and the proposed rule, NMFS received extensive public comment on the question of whether the CRP prohibits the use of AFA vessels as Amendment 80 replacement vessels, the lack of Council consideration or analysis of this issue, and the potential economic impacts that could result from the use of AFA vessels as Amendment 80 replacement vessels. As summarized in Comments 4 and 7 in the Comments and Responses section of this final rule, some commenters wrote in support of the view that the CRP does not prohibit the use of AFA vessels as Amendment 80 replacement vessels and suggested that the sideboards applicable to AFA vessels should not be imposed on AFA vessels that are used as Amendment 80 replacement vessels. However, as summarized in Comments 5 and 6, some commenters disagreed with the view that the CRP does not prohibit use of AFA vessels as Amendment 80 replacement vessels. These commenters expressed concerns about the use of AFA vessels and asserted that the Council did not intend for AFA vessels to be eligible to replace Amendment 80 vessels. Additionally, these commenters noted that the analysis prepared for the action and available to the Council at the time of final action did not describe the potential impacts that could result from the use of AFA vessels as Amendment 80 replacement vessels. These commenters suggested that a regulation that would allow AFA vessels to participate in the Amendment 80 sector would represent a significant change in the policy that formed the basis of the Council's recommendation at final action and that the policy change would destabilize status quo management of groundfish fisheries in the North Pacific.

After consideration of all comments received during the public comment periods for Amendment 97 and the proposed rule, NMFS determined that notwithstanding its view that the CRP does not prohibit the use of AFA vessels as Amendment 80 replacement vessels, a regulatory provision prohibiting the use of AFA vessels as Amendment 80 replacement vessels is necessary to carry out Amendment 97 as recommended by the Council and approved by NMFS. The prohibition is further necessary to allow NMFS to conclude that Amendment 97 as implemented is consistent with the FMP as required by section 304 of the Magnuson-Stevens Act in light of the issues raised by the commenters concerning adverse impacts to the groundfish fisheries and fishery participants that could occur if AFA vessels are used, and the current lack of record support demonstrating that no impacts other than those described in the analysis for Amendment 97 would occur if AFA vessels are used. Therefore, NMFS has included in this final rule a provision at § 679.4(o)(4)(i)(D) that prohibits the use of AFA vessels as Amendment 80 replacement vessels.

NMFS determined that the prohibition is an integral part of Amendment 97 as adopted and recommended by the Council. Although the Council did not specifically articulate the prohibition in its motion for Amendment 97, the Council implicitly incorporated the prohibition into its decision on Amendment 97. The Council based its motion for Amendment 97 on the analysis and public comments presented to it. As explained earlier, the analysis stated that AFA vessels could not be used as Amendment 80 replacement vessels. That conclusion was not challenged while the Council was considering Amendment 97. Given the lack of any analysis, alternative or Council discussion on this issue, it is difficult to conclude that the Council intended to permit the use of AFA vessels as Amendment 80 replacement vessels. NMFS also determined that a regulation implementing the Council's implicit prohibition is necessary because the omission of such a prohibition from the final rule implementing Amendment 97 could undermine the intent of Amendment 97 as adopted by the Council. This final rule establishes an application process by which NMFS approves Amendment 80 replacement vessels. Without a regulatory provision prohibiting the use of AFA vessels as Amendment 80 replacement vessels, NMFS would have no basis upon which to deny an application requesting that NMFS approve an AFA vessel as an Amendment 80 replacement vessel, if the AFA vessel met all the regulatory criteria for Amendment 80 vessel replacement. Therefore, a regulation implementing the Council's implicit prohibition on the use of AFA vessels as Amendment 80 replacement vessels in Amendment 97 is needed. NMFS is authorized to include this prohibition under section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)), which states that NMFS has general responsibility to carry out any fishery management plan or plan amendment approved by NMFS and that NMFS may

promulgate such regulations in accordance with the Administrative Procedure Act (APA) as may be necessary to discharge that responsibility.

NMFS also determined that a regulatory prohibition on the use of AFA vessels as Amendment 80 replacement vessels is reasonable and that the protections the prohibition affords the Amendment 80 sector are justified given the lack of analysis on the impacts that could occur if AFA vessels are permitted to be used as Amendment 80 replacement vessels and the concerns that exist at this time on adverse effects on the fisheries and participants that could occur without a prohibition. The analysis for Amendment 97 fully describes the anticipated impacts of authorizing vessel replacement in the Amendment 80 sector with vessels that are not AFA vessels, with an exception for the F/V *Ocean Peace* which is both an AFA and an Amendment 80 vessel. However, the analysis does not provide any information on the potential effects and impacts of allowing AFA vessels to be used as Amendment 80 replacement vessels on fishing operations in both the AFA and the Amendment 80 sectors. Without this analysis, NMFS does not have adequate information on which to assess the potential impacts of the use of AFA vessels as Amendment 80 replacement vessels, or the specific parameters under which AFA vessels could be used as Amendment 80 replacement vessels. NMFS currently lacks the necessary information and analysis demonstrating that the use of AFA vessels as Amendment 80 replacement vessels is consistent with the FMP and the Magnuson-Stevens Act.

Additionally, as summarized in Comments 5 and 6, some participants in the Amendment 80 sector asserted that the use of AFA vessels would have an adverse impact on their fishing operations. Although NMFS does not yet have adequate information to determine the degree of these impacts, the concerns expressed over the potential for AFA vessels to be more competitive than other Amendment 80 vessels create unanticipated and undesirable consolidation within the sectors, and cause adverse disruption of fishing operations appear to have some merit at this time. NMFS has determined that consolidation of the Amendment 80 sector in excess of what the analysis prepared for Amendment 97 anticipates could occur if AFA vessels are permitted to be used as Amendment 80 replacement vessels. This unanticipated consolidation has the potential to impact communities, crew, the conservation and sustainability of fishery resources, the timing of the fishery, and the value of the fishery in ways that ultimately may not be consistent with the goals and objectives of the FMP. NMFS recognizes that this final rule may indirectly impact vessel owners by limiting the potential amount of consolidation and efficiency that may have been possible through fleet consolidation in the absence of a prohibition. However, given the agency's concerns and the information available at this time, NMFS cannot conclude that the impacts resulting from the use of AFA vessels as Amendment 80 replacement vessels would be consistent with Amendment 97 and the FMP, as required by section 304 of the Magnuson-Stevens Act.

NMFS also determined that the prohibition will not adversely affect existing operations of AFA vessel owners. As noted in the analysis prepared for this rule, no AFA vessels (other than the F/V *Ocean Peace*) are active in the Amendment 80 sector. The prohibition will not affect the F/V *Ocean Peace.* While the prohibition will limit potential future operations of AFA vessels as Amendment 80 replacement vessels, AFA vessel owners will be able to continue all existing fishing operations unaffected by the prohibition. While some AFA vessels owners are advocating for the use of AFA vessels as Amendment 80 replacement vessels, NMFS has received no information through the public comments received on Amendment 97 or the proposed rule that indicates any Amendment 80 vessel owners are seeking to transfer their Amendment 80 QS to AFA vessel owners. The available public comment indicates that such transfers are generally opposed by participants in the Amendment 80 sector. Therefore, it is unlikely that this prohibition will have a foreseeable effect on potential future AFA vessel operations. Although the prohibition only pertains to the use of AFA vessels as Amendment 80 replacement vessels, NMFS notes that this final rule does not prevent AFA vessel owners from purchasing assets in the Amendment 80 fisheries, including Amendment 80 QS and Amendment 80 vessels, which has been possible since the Amendment 80 program was effective in 2008.

NMFS determined that including the prohibition on using AFA vessels as Amendment 80 replacement vessels will not prevent either the Amendment 80 or the AFA sectors from achieving the conservation and management goals and objectives set forth in the FMP for these sectors. The prohibition will not prevent the Amendment 80 sector from replacing lost or aging vessels with safer, more efficient vessels. Although an Amendment 80 vessel owner will not be able to use an AFA vessel as a replacement vessel, this final rule allows the owner to use other non-AFA vessels if the Amendment 80 vessel owner chooses not to invest in a newly constructed vessel. AFA vessel owners will be able to prosecute the fisheries in which they have been participating without change. As mentioned earlier in this preamble, the inclusion of the prohibition does not remove a harvest opportunity that the AFA sector was benefitting from prior to this final rule. With an exception for the F/V *Ocean Peace,* which is both an AFA and an Amendment 80 vessel, no AFA vessel has been used in the Amendment 80 sector since Amendment 80 was implemented. As for the Magnuson-Stevens Act, the Council articulated how Amendment 97, without the use of AFA vessels as Amendment 80 replacement vessels, and this final rule are consistent with the national standards and the other provisions of the MSA. NMFS concurred in the Council's explanation in the agency's approval of Amendment 97 and issuance of this final rule.

NMFS has determined that the prohibition in this final rule is a logical outgrowth of the proposed rule and is consistent with other applicable laws. The preamble to the proposed rule for Amendment 97 explained that the proposed rule did not include a prohibition on the use of AFA vessels as Amendment 80 replacement vessels, described NMFS's view of the CRP, and invited the public to comment. The comments received by NMFS on Amendment 97 and the proposed rule directly focus on whether the final rule should or should not include a prohibition on the use of AFA vessels as Amendment 80 replacement vessels and clearly demonstrate that the affected public understood the effects of the agency's proposed action. The affected public clearly understood that in the proposed rule NMFS was asking for comments on whether AFA vessels should be allowed or prohibited from being used as Amendment 80 replacement vessels and the public provided the agency with pertinent information leading to the agency's decision to include a prohibition on their use in the final rule.

NMFS also determined that the regulatory prohibition on the use of AFA vessels as Amendment 80 replacement vessels in this final rule is consistent with the CRP. NMFS stated in the proposed rule its view that the

CRP does not prohibit the use of AFA vessels as Amendment 80 replacement vessels. At the same time, however, nothing in the CRP requires the Council or NMFS to permit the use of AFA vessels as Amendment 80 replacement vessels. The regulatory prohibition on the use of AFA vessels as Amendment 80 replacement vessels, like other Amendment 80 replacement vessel criteria concerning maximum vessel length and U.S. Coast Guard safety requirements, does not prevent the BSAI non-pollock groundfish catcher/processor subsectors from achieving the purpose of the CRP, which is to reduce excess harvesting capacity through the development of capacity reduction plans. The prohibition does not prevent owners of AFA vessels from participating in BSAI non-pollock groundfish fisheries as members of the AFA trawl catcher/processor subsector or prevent the owners of AFA trawl catcher/processor vessels from participating in a capacity reduction plan under the CRP. The prohibition does not prevent Amendment 80 vessel owners from replacing qualifying Amendment 80 vessels. Additionally, nothing in the CRP overrides the Council's and NMFS's authority under the Magnuson-Stevens Act to impose reasonable criteria consistent with the Magnuson-Stevens Act and other applicable law to achieve the fishery management goals and objectives of the FMP. Moreover, even if the provisions of the CRP could be construed as requiring the use of AFA vessels as Amendment 80 replacement vessels, section 303 of Public Law 111–348 states that ''Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the [CRP].'' This provision, passed into law after the CRP, authorizes NMFS to prohibit by regulation the use of AFA vessels as Amendment 80 replacement vessels even if the provisions of the CRP require it.

During the June 2012 Council meeting, NMFS consulted with the Council, as required by section 304(b) of the Magnuson-Steven Act, regarding the agency's intent to add a regulation to the final rule implementing Amendment 97 that would prohibit AFA vessels from participating as Amendment 80 replacement vessels. NMFS also urged the Council to consider the issue of AFA vessels as Amendment 80 replacement vessels and develop a policy recommendation on the issue. After receiving the agency's report, the Council received comment from the public on the proposal to add a regulation to the final rule prohibiting use of AFA vessels. Following receipt of public comment, the Council discussed NMFS' approach and did not object to the inclusion of the prohibition in the Amendment 97 final rule. Some Council members stated that a prohibition was not included at the time of Council final action on Amendment 97 because at that time the Council understood the CRP precluded the use of AFA vessels as Amendment 80 replacement vessels. In light of NMFS' request, the Council recommended the development of a discussion paper that examines the potential impacts of the use of AFA vessels as Amendment 80 replacement vessels. Specifically, the Council asked NMFS to provide (1) rationale for the interpretation that the CRP does not prohibit an AFA vessel from replacing an Amendment 80 vessel, (2) a general discussion of policy considerations for allowing or not allowing replacement of Amendment 80 vessels with AFA vessels and AFA vessels with Amendment 80 vessels, (3) a discussion of compliance with the CRP should an AFA vessel replace an Amendment 80 vessel, (4) a description of the statutory requirements for replacement of an AFA vessel and whether an Amendment 80 vessel could replace an AFA vessel, and (5) a description of the purpose of sideboards in the AFA and if or how they would apply to an AFA vessel that replaced an Amendment 80 vessel. This discussion paper, currently scheduled to be presented to the Council at its October 2012 meeting, could provide additional information for the Council to recommend that the prohibition on the use of AFA vessels as Amendment 80 replacement vessels as established in this final rule be maintained, modified, or removed. Although NMFS has concluded that the best available information currently supports a regulation that prohibits AFA vessels from participating as Amendment 80 replacement vessels, the Council could choose to act in the future to modify this policy based on new information analyzed and reviewed by the Council at that time.

Replacement Vessel Length Limits, Maximum Length Overall

This final rule limits the length overall (LOA) of Amendment 80 replacement vessels to 295 feet (89.9 m). As described in Section 2.4.5 of the analysis for this action, the average LOA on an Amendment 80 LLP license is 168 feet (51.2 m). Under this action, the LOA of all Amendment 80 vessels could increase up to 295 feet (89.9 m). The Council determined that a vessel length limit of 295 feet (89.9 m) was not likely to constrain the type of fishing operations possible on an Amendment 80 replacement vessel, or the economic viability of a replacement vessel (see Comments 4 through 7). The maximum vessel length is intended to provide equal opportunity for each vessel owner to increase or maintain vessel length, to improve the range of processed products, and to increase hold capacity onboard the vessel. The Council and NMFS recognize that in many cases vessel length is less important for increasing harvest rates than for providing a large enough vessel to provide adequate hold capacity and thereby increase groundfish retention.

This final rule limits the length of replacement vessels to address the potentially adverse competitive effects of new fishing capacity entering the fishery relative to the existing fleet. As described in detail in Section 2.5.5 of the analysis for this action, the length restriction of 295 feet (89.9 m) for replacement vessels is intended to limit overall harvesting capacity of the fleet by providing an upper boundary on total fleet capacity and encourage general improvements in harvesting capacity that any replacement vessel may provide over the vessel being replaced. Similarly, replacement vessel length restrictions are intended to reduce the potential for a race for fish among Amendment 80 participants in the Amendment 80 limited access fishery in concert with cooperative quota and sideboard restrictions. As noted in Section 2.5.5.2 of the EA/RIR/IRFA for this action, Amendment 80 vessels are constrained by quotas in most fisheries in the BSAI and by sideboards limits in the GOA. These restrictions will remain in place and will continue to constrain the fleet in most fisheries.

Under the final rule, NMFS will modify the maximum LOA (MLOA) on Amendment 80 LLP licenses to reflect the regulatory limit of 295 feet (89.9 m) LOA for Amendment 80 vessels when an Amendment 80 LLP license is transferred to a NMFS-approved Amendment 80 replacement vessel. Under regulations at §§ 679.4(o) and 679.7(i)(2), an Amendment 80 vessel is required to use an Amendment 80 LLP while fishing in the BSAI or GOA. Section 2.4.5 of the analysis for this action identifies the 28 LLP licenses that are currently assigned, or may be eligible to be assigned, to Amendment 80 vessels. This final rule removes a prohibition on using an Amendment 80 LLP license on a vessel that does not

meet the original qualifying criteria and allows Amendment 80 LLP licenses to be used on approved Amendment 80 replacement vessels. In most cases, the MLOA on an Amendment 80 LLP license is below 295 feet (89.9 m); therefore, NMFS will increase the MLOA on an Amendment 80 LLP license when transferred to a NMFS-approved Amendment 80 replacement vessel to ensure that the replacement vessel is not constrained by the MLOA on an Amendment 80 LLP license. NMFS will not adjust the MLOA of an Amendment 80 LLP license until it is transferred to a NMFS-approved Amendment 80 replacement vessel.

Assignment of Amendment 80 Quota Share Permits

This final rule makes three modifications to existing regulations concerning the assignment of Amendment 80 QS permits. First, regulations at § 679.90(e)(3) are revised to provide an Amendment 80 vessel owner with the choice of either assigning the Amendment 80 QS permit to an Amendment 80 replacement vessel or permanently assigning the Amendment 80 QS permit to the LLP license derived from the originally qualifying vessel. Second, regulations at § 679.7(o)(3)(iv) are revised to prohibit replaced or replacement vessels from participating in an Amendment 80 fishery unless an Amendment 80 QS permit is assigned to that vessel or to the LLP license naming that vessel. Third, regulations at § 679.4(o)(4) are added to allow all persons holding an Amendment 80 QS permit to replace the vessel associated with the Amendment 80 QS permit, including those Amendment 80 QS permits associated with Amendment 80 vessels that are permanently ineligible to re-enter U.S. fisheries. Each of these modifications is discussed in detail in the preamble to the proposed rule (see **ADDRESSES**) and is summarized here.

This final rule provides Amendment 80 vessel owners with a choice of either assigning the Amendment 80 QS permit to an Amendment 80 replacement vessel or permanently affixing the Amendment 80 QS permit to the LLP license derived from the originally qualifying Amendment 80 vessel, as specified in Table 31 to part 679. Under this second option, the holder of an Amendment 80 LLP/QS license could then assign the license to a vessel authorized to participate in the Amendment 80 sector. Under existing regulations, the holder of an Amendment 80 QS permit that has been assigned to an LLP license cannot uncouple the permit and license at a later date. This final rule maintains the existing practice of permanently affixing the Amendment 80 QS permit to the LLP license.

Regulations implemented by this final rule allow multiple Amendment 80 QS permits or Amendment 80 LLP/QS licenses to be used on an Amendment 80 replacement vessel. Therefore, one replacement vessel could have several Amendment 80 QS permits assigned to that vessel in any fishing year. A single vessel with greater hold capacity could reduce travel times and operational costs associated with operating two or more vessels.

The final rule addresses two situations where the owner of an originally qualifying Amendment 80 vessel and the person holding the Amendment 80 QS permit derived from that vessel differ. First, § 679.7(o)(3)(iv) prohibits replaced or replacement vessels from participating in an Amendment 80 fishery unless an Amendment 80 QS permit is assigned to that vessel or to the LLP license naming that vessel. This provision is intended to eliminate the risk that a person, who is not linked to the Amendment 80 fishery other than through holding title to a lost Amendment 80 vessel could replace that vessel and enter the replacement vessel into the Amendment 80 limited access fishery. In making this recommendation, the Council recognized that vessel owners could have an incentive to enter a replacement vessel into the Amendment 80 sector without having any underlying Amendment 80 QS permits being assigned to that vessel. Second, the final rule contains regulatory provisions that require a vessel participating in the Amendment 80 sector to have an Amendment 80 QS permit assigned to that vessel or permanently assigned to the LLP license derived from the original qualifying vessel. Without such regulation, a person holding title to an originally qualifying Amendment 80 vessel, but not holding QS, could replace that vessel and become active in the fishery, thereby increasing the number of vessels qualified to participate in the Amendment 80 sector. Not only would such a situation be inconsistent with the CRP and the Court's decision, it would likely pose a risk of increased competition for participants in the Amendment 80 limited access fishery.

Finally, this final rule establishes regulations that allow a person holding an Amendment 80 QS permit associated with an Amendment 80 vessel that is permanently ineligible to re-enter U.S. fisheries to replace the vessel associated with its QS permit. This provision is consistent with the CRP because the maximum number of vessels participating in the Amendment 80 sector will not increase given that the replaced vessel cannot re-enter U.S. fisheries. Under this final rule, the person holding the Amendment 80 QS permit for such a vessel is responsible for supplying NMFS with a U.S. Coast Guard or MARAD determination of permanent ineligibility when applying to replace the ineligible vessel.

Sideboard Limitations for Replaced Vessels

This action is intended to limit effort in non-Amendment 80 fisheries by Amendment 80 vessels not assigned to an Amendment 80 QS permit or an Amendment 80 LLP/QS license, also referred to as replaced Amendment 80 vessels. Therefore, this final rule establishes restrictions on the ability of replaced Amendment 80 vessels to participate in Federal groundfish fisheries within the BSAI and GOA. NMFS will allocate a catch limit of zero metric tons in all BSAI and GOA groundfish fisheries to any replaced Amendment 80 vessel. Catch limits of zero metric tons will effectively prohibit these vessels from conducting directed fishing for groundfish in the BSAI and GOA. The Council and NMFS determined that assigning a catch limit of zero metric tons to replaced Amendment 80 vessels was the most direct way to limit participation by replaced vessels. These regulations are intended to prevent replaced Amendment 80 vessels from increasing fishing effort in non-catch share fisheries. Additionally, the Council and NMFS determined that the potential for consolidation of capital among longtime participants in groundfish fisheries might disadvantage or have negative impacts on other participants in those fisheries. This type of restriction on replaced Amendment 80 vessels is consistent with measures contained in other limited access privilege programs in the BSAI and GOA, such as the AFA (see the final rule implementing the AFA at 67 FR 79692, December 30, 2002), the BSAI Crab Rationalization Program (see the final rule implementing the BSAI Crab Rationalization Program at 70 FR 10174, March 2, 2005), and the Central GOA Rockfish Program (see the final rule implementing the Central GOA Rockfish Program at 76 FR 81248, December 27, 2011). NMFS notes that Amendment 97 and this final rule will not restrict replaced Amendment 80 vessels from participating in the BSAI and GOA fisheries as motherships, Community Quota Entity floating processors, or stationary floating processors that only

receive deliveries from other vessels for processing. Similarly, this action will not restrict replaced Amendment 80 vessels from operating in fisheries managed under the jurisdiction of other regional fishery management councils.

Amendment 80 Sideboard Catch Limits and Replacement Vessels

Existing regulatory prohibitions and requirements for monitoring, enforcement, permitting, and recordkeeping and reporting that apply to all original Amendment 80 vessels will continue to apply to all replacement vessels under this final rule. With an exception for the F/V *Golden Fleece,* GOA groundfish and halibut prohibited species catch (PSC) sideboard measures that apply to original Amendment 80 vessels will continue to apply to replacement vessels. As noted in the analysis, the Council intended that regulations implementing Amendment 97 extend these existing management measures and limitations to any replacement vessel and treat a replacement vessel the same as the original qualifying vessel being replaced. The regulations that apply to Amendment 80 vessels are best described in the final rule implementing Amendment 80 (September 14, 2007; 72 FR 52668).

Regulations implementing Amendment 97 continue to recognize the special standing that the F/V *Golden Fleece* has under the Amendment 80 program. The Council and NMFS determined that the F/V *Golden Fleece* has a unique harvest pattern in the GOA that warranted specific GOA sideboard measures under Amendment 80, including an exemption from the GOA halibut PSC sideboard limit established by regulations implementing Amendment 80. These specific GOA sideboard measures enable the F/V *Golden Fleece* to maintain its historic fishing patterns in certain GOA groundfish fisheries. As described in Section 2.4.7 of EA/RIR/IRFA for this action, the F/V *Golden Fleece* has maintained its historic fishing patterns, including its halibut PSC rates, since implementation of Amendment 80.

Under this final rule, any replacement vessel for the F/V *Golden Fleece* that is less than or equal to the MLOA of the LLP license that was originally assigned to the F/V *Golden Fleece* (124 feet, 37.8 m) will receive the F/V *Golden Fleece* GOA groundfish sideboard limits and the exemption from the GOA halibut PSC sideboard limit implemented under Amendment 80. However, if the replacement vessel for the F/V *Golden Fleece* is greater than 124 feet (37.8 m) LOA, then that replacement vessel will be subject to the GOA groundfish and halibut PSC sideboard limits that apply to other Amendment 80 vessels. Under the latter scenario, the replacement vessel will not receive the specific F/V *Golden Fleece* sideboard restrictions and exemptions and GOA groundfish and halibut PSC use of the F/V *Golden Fleece* will be added to the existing Amendment 80 GOA sideboards. Section 2.7.4.3 of the analysis for this action describes the methods that NMFS will use to modify GOA sideboard limits if the F/V *Golden Fleece* is replaced with a vessel greater than 124 feet (37.8 m) LOA. By exempting the F/V *Golden Fleece* from the Amendment 80 GOA groundfish and halibut PSC sideboard limits, the Council and NMFS maintained the F/V *Golden Fleece's* ability to continue to harvest its traditional amounts of GOA flatfish protected from any adverse impacts resulting from other Amendment 80 vessels that could choose to fish in the GOA and use halibut PSC. As with other Amendment 80 replacement vessels, NMFS will adjust the MLOA of the LLP license that was originally assigned to the F/V *Golden Fleece* to 295 feet (89.9 m) for any vessel replacing the F/V *Golden Fleece.*

Directed Fishing in GOA Flatfish Fisheries

Under this final rule, any vessel that replaces an Amendment 80 vessel that is eligible to conduct directed fishing for flatfish in the GOA will be allowed to conduct directed fishing in the GOA flatfish fisheries. There are eleven Amendment 80 vessels currently authorized to conduct directed fishing in the GOA flatfish fisheries. The Council and NMFS determined that there is no conservation or management issue for GOA flatfish fisheries at this time; therefore, eligible Amendment 80 vessel owners should not have to choose between vessel safety improvements and the ability to continue to harvest GOA flatfish. The Council and NMFS recognize the potential for fishing effort to move from the Amendment 80 fisheries to the GOA flatfish fisheries. However, NMFS and the Council do not anticipate a rapid increase in fishing effort in these fisheries due to the impact of replacement vessels and could address the issue at a later date should a conservation or management problem be predicted.

Safety Requirements

The Council and NMFS have long sought to improve safety-at-sea and have recognized the safety concerns within the Amendment 80 fleet. Since 2000, vessel losses and individual fatalities have made the Amendment 80 fleet one of the highest-risk Federal fisheries within the jurisdiction of the Council. The U.S. Coast Guard considers the catcher/processor vessels currently participating in the Amendment 80 sector as high risk primarily due to the age of the vessels, the areas in which they operate, the large number of crew they carry, and their relatively high incidence of marine casualty history.

Under current law, any fish processing vessel that is built or undergoes a major conversion after July 27, 1990, is required by 46 U.S.C. 4503 to meet all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified classification society. A classification society is a non-governmental organization that establishes and maintains technical standards and rules for the construction (hull, machinery, and other vital systems) and operation of ships and offshore structures. The classification society will also validate that construction is completed according to these standards and will carry out regular surveys to ensure continued compliance with the standards. Similarly, all vessels 79 feet or greater that are built or converted for use as a fish processing vessel after January 1, 1983, are required by 46 U.S.C. 5102 to have a load line. A load line establishes the maximum draft of the ship and the legal limit to which a ship may be loaded for specific water types and temperatures. A load line is intended to ensure that a ship has sufficient freeboard so that the vessel has the necessary stability to operate safely.

The vast majority of the vessels currently used in the Amendment 80 sector are not load lined or classed. Due to a variety of concerns, classification societies have not recently classed or load lined vessels greater than 20 years old, and do not appear likely to do so in the foreseeable future. The average age of an Amendment 80 vessel is 32 years, and 22 of the 24 Amendment 80 vessels currently used in the Amendment 80 sector cannot meet the requirements of class and load line because of the age of the vessel. Based on this limitation, the U.S. Coast Guard and owners of Amendment 80 vessels collaborated to develop an alternative program to address the safety risks of this fleet. This collaborative effort is known as the Alternative Compliance and Safety Agreement (ACSA) program. Program development began in June 2005, and implementation was achieved between June 2006 and January 2009. The ACSA program is designed to achieve numerous safety, economic, and

fishery management goals, both directly and indirectly.

While the U.S. Coast Guard and Amendment 80 vessel owners have seen significant improvements in vessel safety as a result of the ACSA program, there are limitations to its long-term effectiveness for the Amendment 80 fleet. The Council and NMFS recognize that no Amendment 80 vessels were constructed to meet the requirements of class and load line; therefore, there are some inherent limitations in achieving a total safety equivalency. Moreover, the National Transportation and Safety Board's (NTSB) investigation into the sinking of the F/V *Alaska Ranger* found that ''while the NTSB finds that ACSA has improved the safety of the vessels enrolled in the program, the effectiveness of ACSA is limited because it is a voluntary program.'' Another key limitation to the ACSA program is vessel age. The average age of an Amendment 80 vessel is 32 years. U.S. Coast Guard marine inspectors in charge of implementing the ACSA program continue to express serious concern over the material condition of this aging fleet, in part because some studies have shown that an increase in vessel age increases the probability of a total loss due to a collision, fire/explosion, material/equipment failure, capsizing, or sinking.

NMFS and the Council note that newly constructed fish processing vessels have to meet the full suite of modern safety standards—including all construction, stability, and manning requirements—intended to ensure such a vessel is inherently safer. Any newly constructed Amendment 80 replacement vessel will be required to be classed and load lined.

This final rule requires an Amendment 80 vessel owner applying to NMFS to replace a vessel with a newly built or recently converted vessel to submit documentation demonstrating that the replacement vessel meets U.S. Coast Guard requirements applicable to processing vessels operating in the Amendment 80 sector or, if unable to meet these requirements and the vessel is currently eligible to participate in the Amendment 80 sector, demonstrate that the vessel is enrolled in the ACSA program. These provisions are intended to improve safety at sea by requiring Amendment 80 replacement vessels to meet safety requirements established for fishing vessels in recent years. The Council and NMFS recognize that it will likely take decades for all Amendment 80 vessels to receive safety upgrades; however, the management measures in this rule that require safety certifications will promote long-term safety improvements for the Amendment 80 fleet.

Amendment 80 Replacement Vessel Applications

The final rule adds regulations at § 679.4(o)(4)(ii) to establish the process for eligible participants to request that a vessel be approved as an Amendment 80 replacement vessel. This final rule requires all eligible participants to submit a completed application before NMFS will approve a replacement vessel for use in the Amendment 80 fisheries. For NMFS to consider an application for approval, the applicant must identify the Amendment 80 vessel being replaced, identify the replacement vessel, and provide documentation demonstrating that the replacement vessel is classed and load lined or, if incapable of being classed and load lined, that the vessel is enrolled in the ACSA Program.

Section § 679.4(o)(4)(i)(B) of this final rule requires that Amendment 80 replacement vessels be built in the United States, and if ever rebuilt, rebuilt in the United States. The applicant must provide documentation with an application to NMFS demonstrating that the replacement vessel was built, or rebuilt, in the United States. NMFS proposed this regulation for Amendment 80 replacement vessels because it is consistent with current vessel replacement regulations for trawl C/Ps participating in the AFA C/P subsector (see § 679.4(l)(7)(i)(B)). As noted in Section 2.4.6.2 of the EA/RIR/FRFA prepared for this action, the requirement that vessels be built or rebuilt in the United States was applicable law for other trawl catcher/processors (*i.e.,* AFA C/Ps) operating in the Bering Sea at the time the Council took final action on Amendment 97. NMFS also proposed this regulation because Section 2.4.9.2 the analysis for Amendment 97 indicates that Amendment 80 vessels owners will be primarily focused on new vessel construction if an owner wants to substantially improve the size, horsepower, tonnage, processing capacity, fuel consumption, handling, or safety components of an Amendment 80 vessel and be able to undertake higher value added processing operations, such as filleting or surimi. Generally, statutes governing vessel construction have required that new vessels be built, or rebuilt, in the United States (*e.g.,* 46 U.S.C. 12102(a), 12151(b)). NMFS determined that this requirement is consistent with the Magnuson-Stevens Act and other applicable law.

The applicant must sign and date an affidavit affirming that all information provided on the application is true, correct, and complete to the best of his or her knowledge and belief. In addition, an applicant holding an Amendment 80 QS permit for a vessel that has been lost at sea or is otherwise permanently ineligible to participate in Amendment 80 fisheries and who applies to replace that vessel must provide evidence to NMFS that ineligibility has been established through a U.S. Coast Guard or MARAD determination. Written documentation must be provided to establish that an ineligible vessel cannot reenter the fishery and that the replacement vessel should be permitted to replace the ineligible vessel.

If NMFS receives a completed application in conformance with regulations at § 679.4(o)(4)(ii), NMFS will process that application as soon as possible. Once a complete application is received by NMFS, the Regional Administrator will approve a vessel that is eligible to participate in Federal fisheries as an Amendment 80 replacement vessel provided that:

- The replacement vessel does not exceed 295 feet (89.9 m) LOA;
- The replacement vessel was built in the United States and, if ever rebuilt, rebuilt in the United States;
- The replacement vessel is not a permitted AFA vessel;
- The replacement vessel is classed and load lined or, if the vessel cannot be classed and load lined, the vessel is enrolled in the U.S. Coast Guard ACSA program;
- Only one replacement vessel is named as a replacement for any one replaced vessel at a given time; and
- The replacement vessel is not otherwise prohibited from participation.

Based on experience with similar actions, NMFS would likely complete the review of an application within 10 calendar days. Applicants should consider the potential time lag between submission of a completed application and the effective date of NMFS' approval of an Amendment 80 replacement vessel. A list of NMFS-approved Amendment 80 vessels, including replacement vessels, will be publicly available at the NMFS Web site at *http://alaskafisheries.noaa.gov.*

The evaluation of an application for an Amendment 80 replacement vessel will require a decision-making process subject to administrative appeal. Applications not meeting the requirements will not be approved. If NMFS denies an application, NMFS will issue an initial administrative determination (IAD) that indicates the deficiencies in the information or evidence submitted in support of the

application and provides information on how an applicant could appeal the IAD. NMFS will use the appeals process described under § 679.43 for administratively adjudicating Amendment 80 vessel replacement decisions. However, rather than appealing an application that is denied, eligible contract signatories also could reapply to NMFS at any time. The process for replacing vessels under Amendment 97 is designed to be flexible and includes no deadlines for submission or limit on the number of times applications can be submitted to NMFS.

Amendment 80 QS Transfer Application

In order to implement Amendment 97, NMFS modifies regulations at § 679.90(d), (e), and (f) regarding the allocation, use, and transfer of Amendment 80 QS permits. Specifically, NMFS adds provisions to the Application to Transfer Amendment 80 QS Permit that allow Amendment 80 QS permit holders to transfer an Amendment 80 QS permit to an Amendment 80 replacement vessel, transfer an Amendment 80 QS permit to a new person, transfer an Amendment 80 QS permit to the Amendment 80 LLP license assigned to the originally qualifying Amendment 80 vessel as noted in Table 31 to part 679, or transfer an Amendment 80 QS permit affixed to an Amendment 80 LLP/QS license to an Amendment 80 replacement vessel. In order to transfer an Amendment 80 QS permit to another person, to a vessel approved as an Amendment 80 replacement vessel, or to an Amendment 80 LLP license defined in Table 31 to part 679, a person must submit an application to transfer an Amendment 80 QS permit that is approved by NMFS under the regulatory provisions at § 679.90(f). A person holding an Amendment 80 LLP/QS license will be able to transfer that Amendment 80 LLP/QS license to another person under the provisions of § 679.4(k)(7).

United States Maritime Administration (MARAD) Vessel Documentation

In order to participate in a U.S. fishery, a vessel must obtain a certificate of documentation with a fishery endorsement either from the U.S. Coast Guard or MARAD (see, *e.g.,* 46 U.S.C. 12102(a), 12113(b)(1), and 12151(b)). Vessels greater than 100 feet (30.5 m) LOA must receive this documentation through MARAD. Federal law prohibits larger vessels from obtaining a fishery endorsement unless specific conditions are met. These prohibitions are currently codified at 46 U.S.C. 12113(d).

Unless an exemption applies, a vessel is not eligible for a fishery endorsement if it is greater than 165 feet (50.3 m) in registered length; is more than 750 gross registered tons (as measured pursuant to 46 U.S.C. Chapter 145) or 1,900 gross registered tons (as measured pursuant to 46 U.S.C. Chapter 143); or possesses a main propulsion engine or engines rated to produce a total of more than 3,000 shaft horsepower, excluding auxiliary engines for hydraulic power, electrical generation, bow or stern thrusters, or similar purposes. One exemption states that a vessel that is prohibited from receiving a fishery endorsement because it exceeds one or more of the three size limits will be eligible for a fishery endorsement if the owner of such vessel demonstrates to MARAD that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Act has recommended after October 21, 1998, and the Secretary has approved, conservation and management measures to allow such vessel to be used in fisheries under such council's authority.

This action permits an Amendment 80 vessel to be longer than 165 feet (50.3 m) registered length and have greater tonnage and horsepower than would otherwise be permitted by 46 U.S.C. 12113(d) and the MARAD regulations. The Secretary approved Amendment 97 on June 6, 2012, and issues this final rule to implement Amendment 97; therefore, the Secretary has approved conservation and management measures that permit an Amendment 80 replacement vessel to exceed the specific length, tonnage, and horsepower limits specified at 46 U.S.C. 12113(d). Secretarial approval of Amendment 97 and publication of implementing regulations is intended to provide MARAD with a clear indication that the Council and NMFS have recommended that Amendment 80 replacement vessels meeting or exceeding the specific length, tonnage, or horsepower limits set forth at 46 U.S.C. 12133(d)(1) are eligible to receive a fishery endorsement consistent with 46 U.S.C. 12113(d)(2)(B) and MARAD regulations at 46 CFR 356.47(c). NMFS will provide MARAD with notification of the publication of this rule to document the Secretary's approval of measures that permit Amendment 80 replacement vessels to exceed these limits.

Changes From the Proposed Rule

As noted earlier in the preamble, the final rule has one substantive change to the regulatory text from the proposed rule (April 4, 2012; 77 FR 20339). The final rule adds a regulatory provision at § 679.4(o)(4)(i) that prohibits the use of AFA vessels as Amendment 80 replacement vessels. A complete explanation of the provision and NMFS's rationale for its inclusion is provided earlier in the preamble and also in the responses to comments below.

In addition, NMFS identified four minor errors in the proposed regulatory text that require clarification from proposed to final rule. First, the final rule revises proposed regulatory text for §§ 679.4(o)(4)(ii) and 679.90(f) by replacing the phrase ''with all applicable fields accurately completed'' with the more precise phrase ''with all required fields accurately completed.'' Second, the final rule revises proposed regulatory text for § 679.7(o)(3)(iv) by removing the words ''A vessel to fish'' at the beginning of the prohibition and replacing them with the word ''Fish'' to make the prohibition more precise and grammatically correct. Third, the final rule revises proposed regulatory text for § 679.90(e)(3)(i) by replacing the phrase ''or to a vessel approved as an Amendment 80 replacement vessel approved by NMFS'' with the more precise phrase ''or to a vessel approved by NMFS as an Amendment 80 replacement vessel.'' Fourth, proposed regulatory text for § 679.92(c)(2)(ii) inadvertently referred to ''column A or Table 39'' when the proposed regulatory text should have read ''column A of Table 39.'' This final rule replaces the word ''or'' with ''of'' for this reference in § 679.92(c)(2)(ii).

Comments and Responses

NMFS received 15 comment letters containing 13 unique comments during the public comment periods on the Notice of Availability for Amendment 97 and the proposed rule to implement Amendment 97. Of the 11 unique individuals who commented, 10 are representatives of the fishing industry and one is a member of the general public. A summary of the comments received, grouped by subject matter, and NMFS' responses follow.

General Comments

Comment 1: Most commenters expressed general support for Amendment 97 and the proposed rule.

Response: NMFS acknowledges this comment.

Comment 2: One commenter expressed general dissatisfaction with fishery management policy and suggested that Amendment 80 vessels should not be permitted to be replaced. Instead, the commenter suggested that NMFS should reduce the number of vessels in the Amendment 80 fleet and

require existing vessels meet modern safety standards.

Response: No changes have been made to the proposed rule in response to this comment. The Council considered and rejected an alternative that would prevent Amendment 80 vessels from being replaced. As described in Section 2.5.1 of the analysis for this action, the Council considered Alternative 1a, the No Action alternative. This alternative directly contravenes the CRP and the court's order in *Arctic Sole Seafoods* v. *Gutierrez,* is inconsistent with the Council's and NMFS' past practice of allowing replacement vessels in catch share programs, including NMFS' authorization of a replacement vessel for the originally qualifying Amendment 80 vessel F/V *Arctic Rose,* and creates an untenable disagreement between Amendment 97 as approved by NMFS and implementing regulations. The court in *Arctic Sole Seafoods* v. *Gutierrez* held that the owner of an originally qualifying Amendment 80 vessel may ''replace a lost qualifying vessel with a single substitute vessel.'' Without a way to replace vessels, there would be a slow reduction of the Amendment 80 fleet through attrition. In addition, Alternative 1a was rejected because it would fail to meet the specific recommendation of the National Transportation Safety Board (NTSB) made following the sinking of the FV *Alaska Ranger.* After that accident, the NTSB recommended that NMFS establish clear regulatory provisions that allow vessel replacement for reasons other than loss.

Had the Council recommended Alternative 1a, Amendment 80 vessel owners would need to maintain and update originally qualifying vessels. As noted in section 2.4.9.1 of the analysis for this action and summarized in response to Comment 11, the age of the current fleet would prevent even rebuilt vessels (*i.e.* vessels undergoing a major conversion) from being classed and load lined. The Council recommended the preferred alternative, in part, to encourage replacement of existing vessels with newly constructed vessels that must meet all applicable safety laws and could increase the wholesale value of fishery products through the use of value-added processing forms. Newer vessels are likely to incorporate safer designs and more advanced safety measures. In addition, new vessels can be designed to meet contemporary international class and load line requirements that would allow vessel operators to retain more products than they currently can under the U.S. Coast Guard's ACSA program, thereby improving the retention and utilization of groundfish.

Comment 3: Most commenters urged NMFS to implement Amendment 97 in an expedited manner and suggested that the delayed Secretarial review of Amendment 97 and its implementing regulations has surpassed a reasonable standard.

Response: NMFS is aware that there is significant interest within the Amendment 80 sector to begin the process of replacing aging vessels and that publication of a final rule implementing Amendment 97 is needed to provide regulatory certainty to Amendment 80 vessel owners. NMFS has many competing projects and worked expeditiously to begin Secretarial review of Amendment 97. NMFS directed limited resources away from other high priority projects to expedite the implementation of this action. NMFS periodically informed the public and the Council of the status of the development of the proposed and final rules and other competing projects. Although the Council did not specifically request prioritization of this action relative to other NMFS projects, NMFS did respond to requests for additional information on a timely basis and considered comments from the public and individual Council members when establishing priorities. NMFS disagrees with any characterization by the commenter that NMFS purposefully delayed Secretarial review of Amendment 97 and its implementing regulations.

Use of AFA Vessels as Amendment 80 Vessels

Comment 4: The final rule should clarify that AFA vessels can be used as Amendment 80 vessels. The preamble to the proposed rule suggests that only two types of vessels may serve as Amendment 80 replacement vessels—vessels currently eligible to participate in Amendment 80 fisheries and newly constructed vessels. The use of AFA vessels as replacement vessels in the Amendment 80 fleet is consistent with the goals of the CRP and is consistent with the Council's goals of improved vessel safety and increased retention and utilization of groundfish by the Amendment 80 fleet. For some participants in the Amendment 80 fleet, AFA catcher/processors may be the only practicable means to those ends.

Response: NMFS declines to modify the final rule as the commenter requests. Contrary to the clarification the commenter requests, this final rule prohibits the use of AFA vessels as Amendment 80 replacement vessels. For reasons provided earlier in the preamble, NMFS determined that such a prohibition is necessary to carry out management of the fisheries in the BSAI consistent with the Council's expectations at the time the Council took final action on Amendment 97 and is reasonable given the information available at this time concerning the potential adverse impacts that could occur within the fishery if AFA vessels are permitted to be used as replacement vessels.

At the June 2012 Council meeting in Kodiak, AK, NFMS consulted with the Council about the agency's intent to include a provision prohibiting the use of AFA vessels as Amendment 80 replacement vessels in the final rule for Amendment 97. After receiving NMFS's report and listening to public comments on the report, the Council requested the development of a discussion paper analyzing the potential impacts of the prohibition on AFA vessels participating as Amendment 80 replacement vessels and the potential impacts of allowing AFA vessels to participate as Amendment 80 replacement vessels. A more detailed description of the discussion paper requested by the Council is provided earlier in this preamble. The Council noted that it was appropriate to have a better understanding of the issues before it considered establishing a policy. As explained earlier, while its is NMFS's view that the CRP does not prohibit use of AFA vessels as Amendment 80 replacement vessels, the goals and purpose of the CRP are not impeded by a prohibition on the use of AFA vessels as Amendment 80 replacement vessels. NMFS expects that the Council, as it considers the use of AFA vessel as Amendment 80 replacement vessels, will receive information on whether the use of AFA vessels as Amendment 80 replacement vessels is consistent with the goals of the FMP and the Magnuson-Stevens Act, and is a practicable way to achieve those goals.

NMFS disagrees with the commenter that the proposed rule suggested that only two types of vessels may serve as Amendment 80 replacement vessels. The proposed rule clearly articulated the criteria that would have to be satisfied for a vessel to be approved as an Amendment 80 replacement vessel and none of these criteria require the replacement vessel to be only a newly constructed vessel or a currently participating Amendment 80 vessel. The proposed rule acknowledged that Amendment 80 vessels owners would likely prefer newly constructed vessels over existing vessels and that newly constructed vessels would likely meet the regulatory criterion that Amendment

80 replacement vessels be compliant with U.S. Coast Guard safety requirements. Additionally, the proposed rule explained that a currently participating Amendment 80 vessel could be used as an Amendment 80 replacement vessel as long as the vessel meets the criteria, including the criterion for compliance with U.S. Coast Guard safety requirements or is enrolled in the ACSA program. Although this final rule adds another eligibility criterion for Amendment 80 replacement vessels, the final rule does not limit the universe of eligible Amendment 80 replacement vessels to only currently participating Amendment 80 vessels and newly constructed vessels.

Comment 5: The final rule for this action should clarify that AFA vessels are not eligible to replace Amendment 80 vessels. By allowing AFA vessels to replace Amendment 80 vessels, NMFS risks investments that fishery participants have made in new vessel construction, hyper-fleet consolidation, excessive shares in these fisheries, and the encroachment of AFA participants in non-AFA fisheries. None of these potential impacts were analyzed or considered as part of this action. NMFS should return to its previous longstanding policy of a clear distinction between the AFA and non-AFA vessel sectors in order to protect status quo management of groundfish in the North Pacific.

The intent of Amendment 97 has always been to allow the Amendment 80 sector to replace vessels, not to facilitate AFA entry into the Amendment 80 sector or to disrupt existing fisheries management in the North Pacific. NMFS inaccurately assumes that the lack of an alternative recommending that NMFS prohibit AFA vessels from replacing Amendment 80 vessels is a tacit endorsement by the Council of this drastic policy change. The analysis before the Council at the time of final action clearly described NMFS' longstanding policy that AFA catcher/processors would be ineligible to fish as non-AFA trawl catcher/processors and could not replace Amendment 80 vessels. None of the alternatives before the Council included a scenario where AFA vessels could be used as Amendment 80 replacement vessels; therefore, the Council could not have understood the economic implications of this policy change. Furthermore, the public was not provided adequate time to comment on the use of AFA vessels as replacement vessels.

Moreover, allowing AFA vessels to be used as Amendment 80 replacement vessels is controversial, illegal, and contrary to the Court Rulings and Federal statutes that govern the AFA and Amendment 80 fleets (see *Arctic Sole Seafoods Inc.* v. *Gutierrez* ; *Oceana* v. *Evans,* 2005; *Fishermen Finest* v. *Locke,* 2010; *Oceana* v. *Locke,* 2011; Pub. L. 111–281; and Pub. L. 111–348). The CRP clearly prohibits AFA vessels from participating in the Amendment 80 fleet (Pub. L. 108–447). Similarly, Congress made it clear that the participants in the AFA fleet relinquished all rights to participate in other BSAI sectors in exchange for its monopoly in the pollock fishery (see AFA sections 208 and 211). Congress has consistently demonstrated that AFA and non-AFA sectors are mutually exclusive. NMFS lacks the authority to change statutory intent; such a change would require Congressional action (see 16 U.S.C. 1854(a)(3) and (b)). Furthermore, any attempt by NMFS to create a rule outside of the rulemaking process (*i.e.,* through preamble text only) is invalid under provisions of the APA (see 5 U.S.C. 706(2)(A) and (C)).

Response: NMFS has included a provision in this final rule that prohibits the use of AFA vessels as Amendment 80 replacement vessels at § 679.4(o)(4)(i). For reasons explained earlier, NMFS determined that at this time, a provision prohibiting the use of AFA vessels as Amendment 80 replacement vessels is necessary to achieve the goals and objectives of Amendment 97 and the FMP and is consistent with the Magnuson-Stevens Act and applicable law.

NMFS disagrees with the commenter's assumption that NMFS interpreted the absence of an alternative containing a prohibition on the use of AFA vessels as Amendment 80 vessels in the Council's motion for Amendment 97 as the Council's ''tacit endorsement'' of their use as Amendment 80 replacement vessels. In the preamble of the proposed rule, NMFS acknowledged that its view of the CRP had changed from that provided to the Council and that the Council's motion did not contain a specific prohibition on the use of AFA vessels as Amendment 80 replacement vessels. NMFS did not state that the combination of these two factors led NMFS to assume that the Council endorsed the use of AFA vessels as Amendment 80 replacement vessels. NMFS was fully aware of the impact its new understanding of the CRP had on the Council's decision on Amendment 97 and highlighted the issue in order to solicit public comment on the matter.

Although not a basis for the final rule's prohibition on use of AFA vessels, NMFS will respond to the commenter's assertion that the CRP clearly prohibits AFA vessels from participating in the Amendment 80 sector. Section 219(a)(7) of the CRP as interpreted by the court sets forth the criteria that an owner of a vessel must meet to originally qualify for participation in the Amendment 80 sector. When the original qualification criteria at section 219(a)(7) have been met, the owner of a qualifying vessel may replace that vessel with a vessel that does not meet all the original qualification criteria. As explained above, the court interpreted the CRP as limiting the universe of owners eligible to participate in the BSAI non-pollock groundfish fishery. It accomplished this objective by limiting eligibility to a person who owns a particular type of vessel with a particular catch history and who has a particular license. However, a person who owns an eligible vessel is no longer bound by the statutory criteria when replacing that vessel. As the court noted, nothing in the CRP indicates that Congress was concerned with which particular vessels are used in the BSAI non-pollock groundfish fishery. Therefore, the owner of a non-AFA trawl catcher/processor vessel must satisfy the criteria specified in section 219(a)(7) of the CRP to originally qualify for the non-AFA trawl catcher/processor subsector and the Amendment 80 sector, but the owner of such a vessel may replace it with a vessel that might not meet the original qualifying criteria of the CRP but is otherwise eligible to participate in the BSAI non-pollock groundfish fishery.

As NMFS stated in the preamble in the proposed rule, its view is that nothing in the CRP or the court's decision supports an interpretation that the criterion at section 219(a)(7)(A), which excludes AFA trawl catcher/processors from the universe of originally qualifying Amendment 80 vessels, should extend to an Amendment 80 replacement vessel. The purpose of the CRP is to promote sustainable fisheries management through the removal of excess harvesting capacity from the catcher/processor sector of the non-pollock groundfish fishery. The use of an AFA vessel as an Amendment 80 replacement vessel does not undermine this purpose. The owner of a vessel that is both an AFA vessel and an Amendment 80 replacement vessel could still participate in a capacity reduction plan developed by one or more of the subsectors in which the owner is a member. Additionally, the owner of a vessel that is both an AFA

vessel and an Amendment 80 replacement vessel would continue to be a member of a catcher/processor subsector, and therefore eligible to participate in the BSAI non-pollock groundfish fishery. Also, the use of an AFA vessel as an Amendment 80 vessel would not increase the harvesting capacity of either the AFA or the Amendment 80 sectors. Generally, if AFA vessels were used as Amendment 80 replacement vessels, NMFS expects the total harvesting capacity in the BSAI catcher/processor sector would decrease rather than increase as AFA vessels replace Amendment 80 vessels and the replaced Amendment 80 vessel is removed from participation in BSAI and GOA groundfish fisheries. This overall reduction in harvesting capacity would be consistent with the goals of the CRP. For these reasons, the agency's view is that the CRP does not prohibit the use of an AFA vessel as an Amendment 80 replacement vessel.

NMFS agrees that existing AFA regulatory provisions, such as sideboards, implemented by the Council and NMFS under section 211 of the AFA and the Magnuson-Stevens Act severely limit or possibly prevent the use of AFA vessels as Amendment 80 replacement vessels. However, as explained in the proposed rule preamble, section 213(c) of the AFA provides the Council and NMFS with the authority to supersede certain provisions of the AFA, such as sideboards, to mitigate adverse effects caused by the AFA. NMFS also acknowledges that section 211(a) of the AFA states that the Council shall recommend for approval by NMFS those conservation and management measures it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by the AFA or fishery cooperatives in the directed pollock fishery. NMFS has determined, as explained earlier, that it has the authority under the Magnuson-Stevens Act and other law to implement with this final rule a provision prohibiting the use of AFA vessels as Amendment 80 vessels and that such a prohibition is necessary and consistent with Amendment 97, the FMP, and the Magnuson-Stevens Act at this time. As described in the response to Comment 4, the Council has requested a discussion paper analyzing the potential impacts of the prohibition on AFA vessels participating as Amendment 80 replacement vessels and the potential impacts of allowing AFA vessels to participate as Amendment 80 replacement vessels. After receiving the information provided in this discussion paper and other information presented to it through public testimony, the Council could choose not to take any action and AFA vessels will be prohibited from use as Amendment 80 replacement vessels, or the Council could initiate an analysis to consider the status quo prohibition and options to allow the use of AFA vessels as Amendment 80 replacement vessels.

NMFS disagrees with the commenter's statements that the agency has a longstanding policy prohibiting the use of AFA vessels as Amendment 80 replacement vessels. In 2007, NMFS had initially interpreted the CRP as prohibiting the replacement of vessels that originally qualified for the Amendment 80 sector under the criteria established by the CRP with a vessel that did not meet the CRP's criteria. NMFS determined that it had no discretion under the CRP to permit vessel replacement with non-qualifying vessels. The court in *Arctic Sole Seafoods* disagreed with NMFS's interpretation, finding the statutory language of the CRP ambiguous on the ability to replace qualifying vessels with non-qualifying vessels, and finding NMFS' prohibition on replacement with non-qualifying vessels arbitrary and capricious. Shortly after receiving the court's decision in *Arctic Sole Seafoods,* NMFS expressed its view that the statutory language of the CRP prohibited the use of AFA vessels as Amendment 80 replacement vessels. This interpretation removed the ability of the Council and agency to exercise their discretionary authority under the Magnuson-Stevens Act to permit or prohibit the use of AFA vessels as Amendment 80 replacement vessels. As explained earlier, NMFS re-examined this interpretation and in the proposed rule expressed its view that the CRP as interpreted by case law did not prohibit the use of AFA vessels. With this final rule, NMFS is implementing a policy decision to prohibit the use of AFA vessels as Amendment 80 replacement vessels for reasons provided earlier in this preamble.

Finally, the commenter objects to what it perceives as NMFS's attempt to implement a statutorily prohibited measure (*i.e.,* permission to use AFA vessels as Amendment 80 replacement vessels) through a statement in the proposed rule preamble rather than as a proposed regulation, in violation of the Administrative Procedure Act. Although NMFS disagrees with the commenter's characterization of the proposed rule preamble and law, NMFS believes that the commenter's concern has been addressed with the implementation of a regulation that prohibits the use of AFA vessels as Amendment 80 vessels in this final rule.

Proposed Catch Limits and Sideboards

Comment 6: The AFA and non-AFA sectors operate under separate, distinct rules and requirements. When compared, it is obvious that one vessel cannot simultaneously satisfy conflicting statutory and regulatory requirements, such as AFA section 211 sideboards, requirements to hold Amendment 80 quota share, AFA and Amendment 80 sector GOA sideboards and PSC limits, and Amendment 85 Pacific cod allocations between non-AFA and AFA subsectors.

Amendment 97 was not intended to be a vehicle to reconsider longstanding sideboard provisions applicable to the AFA and Amendment 80 sectors. NMFS should not encourage the Council to reconsider sector qualifications, allocations, sideboards, harvest limits, and other operational restrictions in order to facilitate AFA vessels entering into the non-AFA sector. Such a regulatory change would be counter-productive for Amendment 80 vessel replacement and would destabilize status quo management of groundfish fisheries in the North Pacific.

Response: As explained earlier in the preamble, this final rule prohibits the use of AFA vessels as Amendment 80 replacement vessels. Therefore, the basis for the commenter's concerns as to whether AFA vessels could be used effectively as Amendment 80 replacement vessels (given all of the harvest requirements and restrictions highlighted by the commenter) has been removed.

NMFS disagrees with the commenter's suggestion that NMFS should not engage the Council on the issues surrounding the eligibility of AFA vessels as replacement vessels, including the applicability of AFA and Amendment 80 sideboard limits. The range of public comments raised in response to this issue demonstrates that this subject is of substantial interest. The Council is the appropriate body to address issues concerning fishery policy. By raising this issue to the Council, NMFS is making the Council aware of the public's interest. In addition, the Council is specifically authorized to recommend modifications to the AFA as appropriate. As NMFS noted in the preamble to the proposed rule for this action, section 213(c) of the AFA authorizes the Council and NMFS to supersede the AFA sideboards and other harvest limits established by the AFA to mitigate adverse effects in fisheries caused by the AFA at any time

it deems necessary. Although the potential impacts of AFA vessels also participating in Amendment 80 fisheries as Amendment 80 replacement vessels was not discussed in the analysis for Amendment 97, the Council could choose to analyze the impacts of alternative actions and decide if the impacts warrant additional management measures to mitigate adverse effects. NFMS consulted with the Council in June 2012 and described NMFS' rationale for and intent to prohibit AFA vessels from participation as Amendment 80 replacement vessels. During the consultation at the June 2012 Council meeting, NMFS urged the Council to engage stakeholders in a discussion of the potential impacts to inform the Council on future action. AFA C/P vessel owners may ask the Council and NMFS to examine changes to existing sideboard limits for AFA catcher/processors that would accommodate the use of an AFA catcher/processor as an Amendment 80 replacement vessel.

As noted in the response to Comment 4, the Council requested a discussion paper analyzing the potential impacts of the prohibition on AFA vessels participating as Amendment 80 replacement vessels and the potential impacts of allowing AFA vessels to participate as Amendment 80 replacement vessels. Thus, the discussion paper will focus on the impacts of permitting versus the impacts of prohibiting verses AFA vessels use as Amendment 80 replacement vessels. As part of this discussion paper, the Council requested that staff describe the possible impacts of catch limits, including sideboards, should the Council recommend that AFA vessels become eligible to participate in Amendment 80 fisheries as replacement vessels.

Comment 7: NMFS' interpretation of the applicability of sideboards to an AFA vessel replacing an Amendment 80 vessel and subsequently participating in non-AFA fisheries is not correct. NMFS should interpret sideboard regulations as it did for Amendment 80 vessels harvesting species allocated to, and on behalf of, Community Development Quota (CDQ) groups. In the CDQ case, NMFS determined that AFA sideboards did not extend to CDQ fisheries because of the language and purpose of the AFA. Extending sideboards to fisheries that are no longer subject to increased competition from the AFA sector (*e.g.,* Amendment 80 fisheries) is not necessary because these sideboards would not protect participants in non-AFA fisheries. Furthermore, extending these catch limits is inconsistent with Congressional intent, as established by the AFA. NMFS should establish sideboards consistent with existing regulations and the plain language text of AFA section 211(b)(2) that requires AFA sideboards to apply only to AFA vessels that are pursuing the ''harvest available.'' Thus, AFA sideboards would not extend to the operations of an AFA catcher/processor serving as an Amendment 80 replacement vessel; when such a vessel is operating in an Amendment 80 fishery, Amendment 80 TAC is ''not available'' to the AFA catcher/processor sector (see AFA section 211(b)(2)(A)). Similar logic would also apply to PSC reserved for the Amendment 80 sector that is ''unavailable'' to the AFA catcher/processor sector (see AFA section 211(b)(2)(A)). Therefore, AFA catcher/processors operating in Amendment 80 fisheries should not have to operate under AFA sideboards because the sideboards would not accrue to the benefit of the AFA sector. In both cases the allocations are unavailable to the AFA sector.

Moreover, if AFA sideboards are applied to AFA vessels participating in Amendment 80 fisheries, NMFS would preclude the use of AFA vessels as replacements for vessels in the Amendment 80 fleet. Congress did not intend to limit the vessels available as replacement vessels to the participants in the Amendment 80 sector. Such a limit is not consistent with the language and purpose of the AFA or the CRP legislation, which created the Amendment 80 sector 6 years later. As the court observed in *Arctic Sole Seafoods* v. *Gutierrez,* ''there is nothing in the [CRP legislation] that indicates Congress was concerned with which particular vessels are used in the [Amendment 80] fishery'' (see 622 F. Supp. 2d 1050, 1060 n.3).

Response: In the proposed rule, NMFS explained that AFA sideboards would apply to any AFA vessel used as an Amendment 80 replacement vessel. Recognizing that these limitations may effectively preclude the use of AFA vessels as Amendment 80 replacement vessels, NMFS identified the need for the Council to examine the issue. However, for reasons explained earlier, NMFS has included a provision in this final rule that prohibits the use of AFA vessels as Amendment 80 replacement vessels. Because this final rule prohibits the use of AFA vessels as Amendment 80 replacement vessels, the question of whether AFA sideboards apply to AFA vessels operating as Amendment 80 replacement vessels is no longer applicable.

The commenter also states that application of AFA sideboards is inconsistent with the language and purpose of the AFA and the CRP legislation because the sideboards would preclude the use of AFA vessels as replacements for vessels in the Amendment 80 fleet and Congress did not intend to limit the vessels available as replacement vessels to the participants in the Amendment 80 sector. NMFS has previously explained that the Council and NMFS have the authority to impose requirements for Amendment 80 replacement vessels. As explained earlier, NMFS has asked the Council to examine the issue of whether AFA vessels should be permitted to be used as Amendment 80 replacement vessels, and the Council is scheduled to review a discussion paper examining this issue at its October 2012 meeting. The discussion paper will examine the impacts of AFA sideboards.

Comment 8: The proposed regulations do not go far enough to restrict the use of replaced Amendment 80 vessels in other fisheries. NMFS should implement stronger regulations similar to those prohibiting replaced AFA vessels from participating in any fishery in the EEZ. Specifically, the Coast Guard Authorization Act of 2010 limits the use of replaced AFA vessels by stating that a replaced AFA vessel will no longer be eligible for a fishery endorsement, unless the vessel in turn replaces another AFA vessel. Allowing less-safe replaced Amendment 80 vessels to participate in other fisheries contradicts National Standard 10, to promote safety of human life at sea.

Response: As noted in section 2.5.9 of the analysis for this action, the Council and NMFS are limited in their ability to address the status of replaced vessels. NMFS does not have general authority to remove a fishery endorsement issued by the U.S. Coast Guard under 46 U.S.C. 12108. NMFS has been able to permanently remove a vessel's ability to receive a fishery endorsement only when granted specific statutory authority by Congress. For example, NMFS removed a vessel's fishing endorsement under the Crab Buyback Program under the authority of the Consolidated Appropriations of 2001 (Pub L. 106–555, sec. 144) and has been granted the authority to do so for replaced AFA vessels (see 46 U.S.C. 12113). Without specific authority from Congress to remove a fishery endorsement from a replaced Amendment 80 vessel, NMFS and the Council had to consider other options to limit the potential use of replaced vessels outside of its jurisdiction.

At final action, the Council recommended that NMFS implement a sideboard limit of zero metric tons of groundfish as defined in the BSAI and GOA FMPs for replaced Amendment 80 vessels. A groundfish sideboard limit of zero for replaced Amendment 80 vessels will prohibit replaced vessels from conducting directed fishing for federally managed groundfish in the BSAI and GOA and should prevent the harvesting capacity of a replaced vessel from displacing existing fishery participants or accelerating the race for fish in non-catch share fisheries managed by the Council. This provision is consistent with similar measures taken to limit access to vessels participating in other limited access privilege program fisheries in the BSAI.

NMFS disagrees that failing to prevent replaced vessels from the Amendment 80 fleet from participating in any EEZ fishery is inconsistent with National Standard 10 of the Magnuson-Stevens Act, which requires that the Secretary shall, to the extent practicable, promote safety of human life at sea. The Secretary has determined that Amendment 97 and this final rule are consistent with all of the national standards and U.S. Coast Guard safety regulations. As described in the proposed rule, U.S. Coast Guard regulations require various safety standards based on the type of processing conducted by the vessel, the area in which the vessel operates, and the number of crew it carries. For example, a replaced Amendment 80 vessel could potentially operate safely in a lower-risk fishery, outside of the North Pacific. The U.S. Coast Guard has found that fatality rates and causal factors are highly differentiated among vessel type, fishery gear, species being fished, and geographic region. NMFS notes that replaced Amendment 80 vessels will be required to meet the applicable fishing vessel safety regulations to operate in other Federal fisheries outside of the North Pacific region.

Comment 9: The proposed rule at page 20344 is misleading and needs to be clarified. NMFS needs to clarify that the provisions of the Coast Guard Authorization Act of 2010 concerning ''replaced'' AFA vessels are not implicated when a permitted AFA vessel is ''replacing'' a vessel in another fishery.

Response: NMFS disagrees that the proposed rule was misleading. However, NMFS clarifies that the Coast Guard Authorization Act of 2010 (Pub. L. 111–281, Title VI, Sec. 602) prohibits replaced AFA vessels from participation in any fishery other than as a replacement vessel in the AFA fleet and agrees with the commenter that these provisions do not apply to AFA vessels that are legally participating in AFA fisheries and are also used to replace a vessel in another fishery.

MLOA of 295 Feet (89.9 m) for All Replacement Vessels

Comment 10: The proposed rule incorrectly states that the longest MLOA in the Amendment 80 fleet is 295 feet (89.9 m). One vessel, the F/V *Seafreeze Alaska,* currently is assigned an LLP license with an MLOA of 296 feet (90.2 m). As proposed, the regulations would reduce the MLOA of the LLP license associated with this vessel to 295 feet (89.9 m). The administrative record does not support reducing the MLOA of the LLP license associated with the F/V *Seafreeze Alaska* and NMFS should not reduce the MLOA for the LLP license associated with this vessel. One commenter suggested that NMFS establish a 295 feet (89.9 m) MLOA for all Amendment 80 LLP licenses that have an existing MLOA of less than 295 feet (89.9 m) when the license is assigned to a replacement vessel, while another commenter suggested that NMFS should allow Amendment 80 replacement vessels to have an MLOA of 296 feet (90.2 m) rather than the proposed MLOA of 295 feet (89.9 m).

Response: NMFS agrees that the proposed rule preamble on page 20340 incorrectly states that the longest MLOA on an Amendment 80 LLP license is 295 feet (89.9 m). While this sentence is incorrect, the information provided in Tables 1 and 28 and in section 2.4.5 of the analysis for this action accurately state that the MLOA of the LLP license associated with the F/V *Seafreeze Alaska* is 296 feet (90.2 m).

The F/V *Seafreeze Alaska* is named on an LLP with an MLOA of 296 feet (90.2 m); however, the F/V *Seafreeze Alaska* is 295 feet (89.9 m) LOA as noted on the Federal Fisheries Permit assigned to that vessel. Tables 1 and 28 of the analysis note both the 296 feet (90.2 m) MLOA of the LLP license currently associated with the F/V *Seafreeze Alaska* and the 295-foot LOA (89.9 m) for the F/V *Seafreeze Alaska.* Upon initial issuance of an LLP license, each license holder was assigned an MLOA based on the length of the qualifying vessel on a specific date, as described in the final rule for the LLP program (63 FR 52642; October 1, 1998). During the development of Amendment 97, NMFS recommended that the Council take similar action when considering vessel length restrictions as part of a vessel replacement action. Specifically, NMFS proposed that the Council establish the LOA of an originally qualifying Amendment 80 vessel as the benchmark for determining the maximum LOA of any replacement vessel under any length limit alternatives considered by the Council. NMFS used the LOA in its Federal fishing permit database as the basis for determining the LOA for all qualifying vessels, and those data are presumed to be correct. Therefore, under the final rule, the MLOA on the LLP license associated with the F/V *Seafreeze Alaska* will be adjusted to 295 feet (89.9 m) when NMFS approves a replacement vessel for it.

NMFS disagrees that the administrative record does not support the Council's recommendation that all LLP licenses associated with Amendment 80 replacement vessels be assigned a 295-foot (89.9 m) MLOA. Section 2.5.5 of the EA/RIR/IRFA for this action analyzes several options for length restrictions based on the LOA of Amendment 80 vessels. In addition to the 295-feet (89.9 m) MLOA restriction, the Council considered an option to limit the length of the replacement vessel to the LOA of the original qualifying vessel, an option to limit the LOA of a replacement vessel based on the MLOA of the LLP license used on the replacement vessel, and two suboptions that would modify the LOA of a vessel, not the MLOA of an LLP license.

At final action on Amendment 97, the Council selected the option that would limit the length overall of an Amendment 80 replacement vessel to 295 feet (89.9 m) LOA. This measure allows each replacement vessel to be as long as the largest vessel currently operating in the Amendment 80 fleet. In selecting the limit of 295 feet (89.9 m) LOA for replacement vessels, the Council reviewed the LOAs of participating Amendment 80 vessels and determined that replacement vessels should not be longer than the longest vessel currently participating in the sector; in other words, no replacement vessel should exceed the LOA of the longest currently participating vessel. For the reasons provided in the preamble of the proposed rule, the Council determined that the LOA of the longest vessel currently participating in the sector would accommodate all of the safety, retention and utilization goals the Council wanted to achieve with replacement vessels while providing an upper bound on total fleet capacity. Therefore the Council determined and NMFS agrees that a limit of 295 feet (89.9 m) on the LOA for replacement vessels struck the appropriate balance

between long enough without being too long.

The Council rejected the option that would have established no limit on the length of replacement vessels. As described in detail in Section 2.4.5 of the analysis for this action, the restriction of 295 feet (89.9 m) on the length of replacement vessels is intended to limit overall harvesting capacity of the fleet, reduce the potential for a race for fish in non-catch share fisheries managed by the Council, and encourage general improvements in harvesting capacity that any newly constructed vessel would provide over the vessel being replaced, while providing an upper boundary on total fleet capacity.

The Council has frequently recommended limits on vessel length as a proxy for controlling fishery effort. Although length is only one measure of a vessel's fishing capacity, it is a metric that is commonly used, considered to be a reasonable indicator of total harvest capacity, and is relatively easily measured and enforced compared to other vessel measurements (*e.g.,* vessel hold capacity). The 295 feet (89.9 m) LOA limit implemented by this final rule is intended to improve the Council's and NMFS' ability to analyze and predict the maximum fishery impacts of the Amendment 80 fleet in future actions.

To ensure that the maximum size limit recommended by the Council can be implemented, NMFS is establishing an MLOA of 295 feet (89.9 m) for all Amendment 80 LLP licenses that are assigned to an Amendment 80 replacement vessel (see revised definition for Maximum LOA (MLOA) at § 679.2). This provision is intended to ensure that Amendment 80 LLP licenses accurately reflect the MLOA of the replacement vessel.

Although a vessel that is 296 feet LOA would not be approved as an Amendment 80 replacement vessel, the owner of the F/V *Seafreeze Alaska* is likely to benefit from a newly constructed vessel at its current LOA of 295 feet (89.9 m). The analysis for this action indicates that vessels with the longest LOA are likely to benefit from vessel replacement under Amendment 97. Generally, all Amendment 80 vessels larger than 250 feet (76.2 m) LOA are long enough to incorporate a meal plant, fillet lines, or other improvements in vessel processing; however, any newly constructed, or newly rebuilt, replacement vessel is likely to have improved operational capabilities relative to existing vessels of the same length. A new vessel can incorporate improved hull design, processing plant construction, engines, electronics, fishing gear, and other advancements in marine design that improve efficiency and vessel safety.

NMFS made no change to the final rule in response to this comment.

Comment 11: NMFS should clarify that rebuilt vessels are eligible as Amendment 80 replacement vessels under this action, including the regulatory provisions that establish an MLOA of 295 feet (89.9 m) for all replacement vessels.

Response: NMFS agrees that rebuilt vessels, which are those vessels that have undergone a major conversion, are eligible to apply to NMFS for approval as an Amendment 80 replacement vessel. However, as described earlier, Amendment 80 replacement vessels must be classed and load lined or, if the vessel cannot be classed and load lined, the vessel must be enrolled in the U.S. Coast Guard ACSA program. Vessels must also have been rebuilt in the United States. Section 2.4.9 of the analysis for this action considered the impacts of using rebuilt Amendment 80 vessels for use as Amendment 80 replacement vessels. It is NMFS's understanding based on information provided by the U.S. Coast Guard that an Amendment 80 vessel owner who undertakes a major conversion of an Amendment 80 vessel to increase its size, address safety concerns, or otherwise improve its efficiency will no longer be eligible for the U.S. Coast Guard's ACSA certification program. Therefore, a rebuilt Amendment 80 vessel must be classed and load lined in order to meet the vessel safety requirements for Amendment 80 replacement vessels established by this rule.

All commercial fishing vessels that carry more than 16 people on board and are built or have undergone a major conversion must meet contemporary safety requirements. As fish processing vessels, newly rebuilt Amendment 80 vessels are required to be classed (see 46 CFR part 28, subpart D) and load lined (see 46 U.S.C. 5102). The analysis notes that age restrictions imposed by the classification societies preclude the vast majority of the Amendment 80 fleet from eligibility for certification as either load lined or classed. Given this information and the information presented in Section 2.4.9.1 of the analysis, NMFS has serious concerns as to whether a rebuilt Amendment 80 vessel could be classed and load lined. NMFS will not approve a vessel as an Amendment 80 replacement vessel if the vessel is not classed and load lined and is not enrolled in the U.S. Coast Guard ACSA program. Should a vessel owner choose to rebuild an existing Amendment 80 vessel, that vessel owner must apply to NMFS and NMFS must approve the vessel as an Amendment 80 replacement vessel prior to it being used as an Amendment 80 replacement vessel and prior to receiving an MLOA of 295 feet (89.9 m) on the LLP license associated with that vessel.

Comments on FMP Text

Comment 12: Under Amendment 97, Section 3.7.5.7.1 of the FMP will appropriately include the phrase ''or their replacement'' after references to ''non-AFA trawl catcher/processors.'' The phrase ''or their replacement'' also should be included after references to ''non-AFA trawl catcher/processors'' in the Executive Summary and Section 3.7.5.4.2.

Response: NMFS acknowledges this comment; however, the changes to the FMP text suggested by the commenter are not required. The Executive Summary section of the FMP is intended to provide a general description of the FMP and its contents, and does not require additional details that are included later in the FMP. Similarly, Section 3.7.5.4.2 of the FMP opens with an introductory sentence that lists 11 issues that are described in more detail later in that section. Although NMFS agrees that the introductory sentence for Section 3.7.5.4.2 of the FMP does not include the phrase ''or their replacement,'' the new paragraph 11 to Section 3.7.5.4.2 provides the details necessary to derive an allocation formula for Amendment 80 replacement vessels. As noted earlier in the preamble, the Secretary determined that Amendment 97 as submitted by the Council was consistent with the FMP, the Magnuson-Stevens Act, and other applicable law and approved it on June 6, 2012.

Comment 13: Under Amendment 97, Section 3.7.5.7 of the FMP amendment will describe the sideboards applicable to replaced Amendment 80 vessels as ''Each non-AFA trawl catcher/processor named on an LLP license endorsed for participation in the Amendment 80 sector, but not assigned QS in an Amendment 80 fishery would have a sideboard limit of zero in all BSAI and GOA groundfish fisheries.'' As proposed, the FMP text would not include Amendment 80 vessels that are no longer named on Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 LLP/QS licenses, and therefore appears to be materially different than the sideboard regulation proposed at § 679.92(e). Thus, NMFS should replace the text of the FMP

amendment with the more precise regulatory text in the proposed rule.

Response: NMFS determined that the text proposed by the commenter is not necessary in the FMP as the amendment language is sufficiently clear. The FMP text quoted by the commenter adequately describes the sideboards that will apply to replaced Amendment 80 vessels. Regulations implementing an FMP amendment often contain additional descriptive language to provide additional regulatory clarity and technical continuity.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis (FRFA), the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of this final rule are available from NMFS at the following Web site: *http://alaskafisheries.noaa.gov.*

Executive Order 12866

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

Final Regulatory Flexibility Analysis

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on April 4, 2012 (77 FR 20339), with comments invited through May 4, 2012. An IRFA was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in the Regulatory Flexibility Act (RFA), sections 604(a)(1) through (5), and summarized below.

The FRFA must contain:

1. A succinct statement of the need for, and objectives of, the rule;
2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
3. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;
4. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The ''universe'' of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the final rule. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (*e.g.,* user group, gear type, geographic area), that segment would be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Need for and Objectives of This Final Rule

This final rule is necessary to amend the FMP and Federal regulations related to the Amendment 80 program to establish a process for the owners of Amendment 80 vessels to replace eligible trawl catcher/processor vessels. This final rule is intended to rectify the currently untenable disagreement among the FMP, implementing regulations, and the court order in *Arctic Sole Seafoods* v. *Gutierrez,* 622 F. Supp. 2d 1050 (W.D. Wash 2008). Currently, the FMP and implementing regulations prohibit the replacement of any originally qualifying Amendment 80 vessel; however, the court order vacated the specific regulatory provisions that preclude vessel replacement. This action is intended to provide a clear regulatory framework and the certainty that vessel operators are likely to need in order to replace vessels.

Summary of Significant Issues Raised During Public Comment

No comments were received that raised significant issues in response to the IRFA specifically; therefore, no changes were made to the rule as a result of comments on the IRFA. However, several comments were received on the economic impacts of Amendment 97 on different sectors of the industry. Specific comments addressed the potential economic impacts of allowing AFA vessels to be used as amendment 80 replacement vessels (see Comments 4 through 7). For a summary of the comments received, refer to the section above titled Comments and Responses.

Number and Description of Small Entities Regulated by the Final Rule

NMFS estimated the number of small versus large entities by matching the gross earnings from all fisheries of record for 2009 with the vessels, the known ownership of those vessels, and the known affiliations of those vessels in the BSAI or GOA groundfish fisheries for that year. NMFS has specific information on the ownership of vessels and the affiliations that exist based on data provided by the Amendment 80 sector, as well as a review of ownership data independently available to NMFS from Federal fishing permit and LLP applications. The vessels with a common ownership linkage, and therefore affiliation, are reported in Table 2 in Section 2 of the analysis. In addition, those vessels that are assigned to an Amendment 80 cooperative and receive an exclusive harvest privilege are categorized as a large entities for the purpose of the RFA, under the principles of affiliation, due to their participation in a harvesting cooperative.

NMFS knows that as many as 28 non-AFA trawl catcher/processors could be active in the Amendment 80 fishery. Those persons who apply for and receive Amendment 80 QS are eligible to fish in the Amendment 80 sector, and those QS holders will be directly regulated by the final rule. Vessels that are assigned Amendment 80 QS and that are eligible to fish in the Amendment 80 sector are commonly known as Amendment 80 vessels. Currently, there are 27 Amendment 80 vessels that will be directly regulated based on this action. Additionally, one vessel owner, who could be eligible for the Amendment 80 program and could apply for Amendment 80 QS, has not applied to NFMS to participate in this sector. Therefore, this vessel will not be directly regulated by the final rule unless and until the owner is approved to participate in the Amendment 80 sector and is assigned Amendment 80 QS. Based on the known affiliations and ownership of the Amendment 80 vessels, all but one of the Amendment 80 vessel owners are categorized as large entities for the purpose of the RFA. Thus, this analysis estimates that only one small entity would be directly regulated by the final rule. It is possible that this one small entity could be linked by company affiliation to a large entity, which may then qualify that entity as a large entity, but complete information is not available to determine any such linkages.

Recordkeeping and Reporting

Recordkeeping and reporting requirements are not expected to change as a result of the final rule. The action under consideration requires no additional reporting, recordkeeping, or other compliance requirements that differ from the status quo.

Description of Significant Alternatives to the Final Rule

The suite of potential actions included three alternatives. A detailed description of these alternatives is provided in Section 2 of the analysis. Alternative 1 is the ''no action'' alternative. This alternative does not address the Federal Court Order to provide for replacement of Amendment 80 vessels and is not consistent with the purpose and need of this action. Alternative 2 would allow an Amendment 80 vessel owner to replace a vessel under conditions of loss or permanent ineligibility. This alternative meets the minimum requirements of the Court Order but was not selected because it may limit a vessel's ability to add modern safety upgrades. It also carried a substantially higher economic cost than alternative 3 to achieve the same regulatory outcome for the fishing sector, causing it to fail the requirement that it minimize the adverse economic impacts on directly regulated small entities. The lack of any quantitative data makes it impossible to rigorously assess the relative differences in expected economic benefits among the alternatives.

Alternative 3, the preferred alternative of the Council and NMFS, would allow a vessel owner to replace a vessel for any purpose. Based upon the best available scientific data and information, none of the alternatives to the final action accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes, while minimizing any significant adverse economic impact on small entities, beyond those achieved under the final rule. Compared with the other alternatives and options, the associated suite of options composing the preferred alternative best minimizes adverse economic impacts on small entities, while providing the most benefits to the directly regulated small entities. The preferred alternative provides greater economic benefits for participants than alternative 2 by allowing participants to replace a vessel for any reason, and at any time, thus enabling the vessel to receive economic benefits from the fishery and Amendment 80 QS while incorporating safety and efficiency upgrades encouraged by the preferred alternative. The lack of any quantitative data makes it impossible to rigorously assess the relative differences in expected economic impacts among the alternatives. The Council chose to recommend the preferred alternative because it best meets the goals of this action and minimizes the potential negative impacts to directly regulated small entities by providing the same opportunities for each vessel owner to improve the range of processed products and increase hold capacity onboard by establishing regulations to limit the maximum size of replacement vessels.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act and which have been approved by the Office of Management and Budget (OMB). Public reporting burden estimates per response for these requirements are listed by OMB control number.

OMB Control No. 0648–0334

Public reporting burden is estimated to average per response: 1 hour for Application for Transfer, License Limitation Program Groundfish/Crab License.

OMB Control No. 0648–0565

Public reporting burden is estimated to average per response: 2 hours for Amendment 80 QS permit application; 2 hours for Amendment 80 QS permit transfer application; and 2 hours for Amendment 80 Vessel Replacement application.

Public reporting burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 25, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

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

■ 2. In § 679.2:

■ a. Revise the definition of ''Amendment 80 LLP/QS license'' and the definition for ''Amendment 80 vessel;'' and

■ b. Add a new definition of ''Amendment 80 replacement vessel'' in alphabetical order, and add paragraph (2)(iv) to the definition of ''Maximum LOA (MLOA)''.

The revisions and additions read as follows:

§ 679.2 Definitions.

* * * * *

Amendment 80 LLP/QS license means an LLP license originally assigned to an originally qualifying Amendment 80 vessel with an Amendment 80 QS permit assigned to that LLP license.

* * * * *

Amendment 80 replacement vessel means a vessel approved by NMFS in accordance with § 679.4(o)(4).

* * * * *

Amendment 80 vessel means any vessel that:

(1) Is listed in Column A of Table 31 to this part with the corresponding USCG Documentation Number listed in Column B of Table 31 to this part; or

(2) Is designated on an Amendment 80 QS permit, Amendment 80 LLP/QS license, or Amendment 80 LLP license and is approved by NMFS in accordance with § 679.4(o)(4) as an Amendment 80 replacement vessel.

* * * * *

Maximum LOA (MLOA) means:

(2) * * *

(iv) The MLOA of an Amendment 80 LLP license or Amendment 80 LLP/QS license will be permanently changed to 295 ft. (89.9 m) when an Amendment 80 replacement vessel is listed on the license following the approval of a license transfer application described at § 679.4(k)(7).

* * * * *

■ 3. In § 679.4:

■ a. Revise paragraphs (k)(7)(vii), (o)(1)(ii), and (o)(1)(v); and

■ b. Add paragraphs (k)(3)(i)(C), (o)(1)(vii), (o)(4), and (o)(5).

The revisions and additions read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(3) * * *

(i) * * *

(C) *Modification of the MLOA on an Amendment 80 LLP license or an Amendment 80 LLP/QS license.* The MLOA designated on an Amendment 80 LLP license or an Amendment 80 LLP/QS license will be 295 ft. (89.9 m) if an Amendment 80 replacement vessel is designated on the license following the approval of a license transfer request under paragraph (k)(7) of this section.

* * * * *

(7) * * *

(vii) *Request to change the designated vessel.* (A) A request to change the vessel designated on an LLP groundfish or crab species license must be made on a transfer application. If this request is approved and made separately from a license transfer, it will count towards the annual limit on voluntary transfers specified in paragraph (k)(7)(vi) of this section.

(B) A request to change the vessel designated on an Amendment 80 LLP license or an Amendment 80 LLP/QS license must be made on an Application for Amendment 80 Replacement Vessel in accordance with § 679.4(o)(4)(ii). The MLOA modification specified at paragraph (k)(3)(i)(C) of this section will be effective when a complete application is submitted to NMFS in accordance with paragraph (k)(7) of this section, and the application is approved by the Regional Administrator.

* * * * *

(o) * * *

(1) * * *

(ii) An Amendment 80 QS permit is assigned to the owner of an Amendment 80 vessel that gave rise to that permit under the provisions of § 679.90(b), or its replacement under § 679.4(o)(4), unless the Amendment 80 QS permit is assigned to the holder of an LLP license originally assigned to an Amendment 80 vessel under the provisions of § 679.90(d) or § 679.90(e).

* * * * *

(v) Amendment 80 QS units assigned to an Amendment 80 QS permit are non-severable from that Amendment 80 QS permit and if transferred, the Amendment 80 QS permit must be transferred in its entirety to another person under the provisions of § 679.90(d) or § 679.90(e).

* * * * *

(vii) The owner of an Amendment 80 vessel must designate the Amendment 80 vessel on an Amendment 80 QS permit and on an Amendment 80 LLP license, or designate the Amendment 80 vessel on the Amendment 80 LLP/QS license to use that Amendment 80 vessel in an Amendment 80 fishery.

* * * * *

(4) *Amendment 80 Replacement Vessel.* (i) The owner of an Amendment 80 vessel may replace such vessel for any purpose. All Federal fishery regulations applicable to the replaced vessel apply to the replacement vessel, except as described at § 679.92(d)(2)(ii) if applicable. A vessel that replaces an Amendment 80 vessel will be approved by the Regional Administrator as an Amendment 80 vessel following the submission and approval of a completed application for an Amendment 80 Replacement Vessel, provided that:

(A) The replacement vessel does not exceed 295 ft. (89.9 m) LOA;

(B) The replacement vessel was built in the United States and, if ever rebuilt, rebuilt in the United States;

(C) The applicant provides documentation that the replacement vessel complies with U.S. Coast Guard safety requirements applicable to processing vessels operating in the Amendment 80 sector or, if unable to provide such documentation, the applicant provides documentation that the replacement vessel meets the requirements of the U.S. Coast Guard's Alternative Compliance and Safety Agreement; and

(D) The replacement vessel is not a vessel listed at section 208(e)(1) through (20) of the American Fisheries Act or permitted under § 679.4(l)(2)(i), or an AFA catcher vessel permitted under § 679.4(l)(3)(i).

(ii) *Application for Amendment 80 Replacement Vessel.* A person who wishes to replace an Amendment 80 vessel must submit to NMFS a complete Application for Amendment 80 Replacement Vessel. An application must contain the information specified on the form, with all required fields accurately completed and all required documentation attached. This application must be submitted to NMFS using the methods described on the application.

(5) *Application evaluations and appeals*—(i) *Initial evaluation.* The Regional Administrator will evaluate an application for an Amendment 80 replacement vessel submitted in accordance with paragraph (o)(4) of this section. If the vessel listed in the application does not meet the requirements for an Amendment 80 replacement vessel at § 679.4(o)(4), NMFS will not approve the application. An applicant who submits claims based on inconsistent information or fails to submit the information specified in the application for an Amendment 80 replacement vessel will be provided a single 30-day evidentiary period to submit evidence to establish that the vessel meets the requirements to be an Amendment 80 replacement vessel. The burden is on the applicant to establish that the vessel meets the criteria to become a replacement vessel.

(ii) *Additional information and evidence.* The Regional Administrator will evaluate the additional information or evidence to support an application for Amendment 80 replacement vessel submitted within the 30-day evidentiary period. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the vessel meets the requirements to become an Amendment 80 Replacement Vessel, the application will be approved. However, if the Regional Administrator determines that the

vessel does not meet the requirements to become an Amendment 80 Replacement Vessel, the applicant will be notified by an initial administrative determination (IAD) that the application for replacement vessel is denied.

(iii) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to establish that the vessel meets the requirements for an Amendment 80 replacement vessel or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

■ 4. In § 679.7, add paragraph (o)(3)(iv) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(o) * * *

(3) * * *

(iv) Fish in an Amendment 80 fishery without an Amendment 80 QS permit or Amendment 80 LLP/QS license assigned to that vessel.

* * * * *

■ 5. In § 679.90, revise paragraphs (d)(2)(ii), (e)(1)(ii), (e)(3), and (f) to read as follows:

§ 679.90 Allocation, use, and transfer of Amendment 80 QS permits.

* * * * *

(d) * * *

(2) * * *

(ii) *Amendment 80 LLP/QS license.* NMFS will issue an Amendment 80 QS permit as an endorsement on an Amendment 80 LLP license to the holder of an LLP license originally assigned to an Amendment 80 vessel listed in Column A of Table 31 to this part, under the provisions of § 679.4(k)(7), if that person submitted a timely and complete Application for Amendment 80 QS that was approved by NMFS under paragraph (a)(2)(ii) of this section.

* * * * *

(e) * * *

(1) * * *

(ii) If an Amendment 80 QS permit is assigned to an Amendment 80 LLP license originally assigned to an Amendment 80 vessel, that Amendment 80 LLP license is designated as an Amendment 80 LLP/QS license. A person may not separate the Amendment 80 QS permit from that Amendment 80 LLP/QS license.

* * * * *

(3) *Transfers of Amendment 80 QS permits.* (i) A person holding an Amendment 80 QS permit assigned to an Amendment 80 vessel may transfer that Amendment 80 QS permit to another person, to the LLP license originally assigned to an Amendment 80 vessel, or to a vessel approved by NMFS as an Amendment 80 replacement vessel in accordance with § 679.4(o)(4) by submitting an Application to Transfer an Amendment 80 QS permit that is approved by NMFS under the provisions of paragraph (f) of this section.

(ii) A person holding an Amendment 80 LLP license that is designated as an Amendment 80 LLP/QS license may designate a vessel approved as an Amendment 80 replacement vessel by submitting an Application For Transfer License Limitation Program Groundfish/Crab License that is approved by NMFS under the provisions of paragraph (f) of this section.

* * * * *

(f) *Application to Transfer Amendment 80 QS.* A person holding an Amendment 80 QS permit who wishes to transfer the Amendment 80 QS permit to the LLP license originally assigned to the Amendment 80 vessel, or transfer the Amendment 80 QS permit to another person, or transfer the Amendment 80 QS permit to an Amendment 80 replacement vessel must submit to NMFS a complete Application to Transfer an Amendment 80 QS permit. The holder of an Amendment 80 LLP/QS license may designate the replacement vessel on the LLP license by using the Application for Transfer License Limitation Program Groundfish/Crab License. An application must contain the information specified on the form, with all required fields accurately completed and all required documentation attached. This application must be submitted to NMFS using the methods described on the application.

■ 6. In § 679.92:

■ a. Revise paragraph (c); and

■ b. Add paragraphs (d)(2) and (e).

The additions and revisions read as follows:

§ 679.92 Amendment 80 Program use caps and sideboard limits.

* * * * *

(c) *Sideboard restrictions applicable to Amendment 80 vessels directed fishing for flatfish in the GOA*—(1) *Originally Qualifying Amendment 80 Vessels.* An Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(2) *Amendment 80 Replacement Vessels.* (i) Any vessel that NMFS approves to replace an Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(ii) Any vessel that NMFS subsequently approves to replace an Amendment 80 replacement vessel that replaced an Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(d) * * *

(2) *Sideboard restrictions applicable to any vessel replacing the GOLDEN FLEECE.* (i) If the vessel replacing the GOLDEN FLEECE is of an LOA less than or equal to 124 ft. (38.1 m) (the MLOA of the LLP license that was originally assigned to the GOLDEN FLEECE, LLG 2524), then the sideboard provisions at § 679.92(c) and (d)(1) apply.

(ii) If the vessel replacing the GOLDEN FLEECE is greater than 124 ft. (38.1 m) (the MLOA of the LLP license that was originally assigned to the GOLDEN FLEECE, LLG 2524), then the sideboard provisions at § 679.92(b) and (c) apply.

(e) *Sideboard restrictions applicable to Amendment 80 vessel not assigned an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 LLP/QS license.* All Amendment 80 vessels not designated on:

(1) An Amendment 80 QS permit and an Amendment 80 LLP license; or

(2) An Amendment 80 LLP/QS license will be allocated a catch limit of 0 mt in the BSAI and GOA.

[FR Doc. 2012–24100 Filed 9–27–12; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 190
Monday, October 1, 2012

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0562; Directorate Identifier 2011–CE–015–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes; Initial Regulatory Flexibility Analysis

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availability of an Initial Regulatory Flexibility Analysis.

SUMMARY: This document announces the availability of and request for comments on the Initial Regulatory Flexibility Analysis for the previously published proposed airworthiness directive (AD) on Cessna Aircraft Company 310, 320, 340, 401, 402, 411, 414, and 421 airplanes regarding the installation of placards requiring flight limitations in icing conditions.

DATES: Comments must be received on or before November 15, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Jason Brys, Flight Test Engineer, FAA, Wichita Aircraft Certification Office, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4100; fax: (316) 946–4107; email: *jason.brys@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on June 3, 2011 (76 FR 32103). That NPRM proposed to require you to install a placard that prohibits flight into known icing conditions and install a placard that increases published speed on approach 17 miles per hour (mph) (15 knots) in case of an inadvertent encounter with icing.

Reason for This Action

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.

To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. In accordance with Section 608 of the Regulatory Flexibility Act, an agency head may waive or delay completion of some or all of the requirements of Section 603 by providing a written finding that this final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of Section 603 impracticable.

Based on the comments received following publication of the NPRM, we have re-evaluated our certification under the RFA that the proposed rule will not, if promulgated, have a significant impact on a substantial number of small entities. Based on our re-evaluation, we have determined that the proposed rule will, if promulgated, have a significant impact on a substantial number of small entities. Consequently, we have completed an initial regulatory flexibility analysis (IRFA) and request comments from affected small entities. The purpose of this analysis is to identify the number of small entities affected, assess the economic impact of the proposed regulation on them, and consider less burdensome alternatives and still meet the agency's statutory objectives. Section 603(a) of the RFA requires that each initial regulatory flexibility analysis contain:

1. A description of the reasons action by the agency is being considered;
2. A succinct statement of the objectives of, and legal basis for, the proposed rule;
3. A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
4. A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
5. To the extent practicable, an identification of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and
6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statues and that minimize any significant economic impact of the proposed rule on small entities.

A brief description of each of these criteria is discussed below. A full discussion, footnote references, tables, and appendix included in the full IRFA can be found in the docket at *http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=FAA-2011–0562.*

1. A Description of the Reasons Action by the Agency Is Being Considered

For the airplanes listed in Cessna Aircraft Company (Cessna) Service Bulletin MEB97–4, the actions required by the proposed rule will prohibit flight into known icing conditions. An investigation of the airplanes affected by the proposed rule showed 52 icing-

related incidents and accidents over the last 30 years resulting in 36 fatalities. The non-fatal accidents have usually resulted in injuries and substantial aircraft damage.

Although many of these airplanes are equipped with optional deicing boots and other deicing (or icing prevention) equipment, the manufacturer never intended that they should be flown into known icing. However, the original certification basis for these airplanes did not incorporate Amendment 7 (May 3, 1962) of CAR 3, requiring manufacturers to provide a placard specifying the types of operations and meteorological conditions (e.g. icing conditions) to which the operation of the aircraft is limited by the equipment installed (CAR 3 § 3.772). As a result, with operational deicing equipment these airplanes may be qualified to fly into known light or moderate icing condition under 14 CFR 135.227(c)(1) and may even be allowed to fly into known icing conditions under 14 CFR 91.9. In 1973, new part 23 certification rules became effective. Some of the later production of the affected Cessna models added new and improved equipment in order to recertify under the new requirements. However, production under previous type certificates continued as late as 1976.

2. Objectives of, and Legal Basis for, the Proposed Rule

The proposed rule would require owners or operators to install a placard prohibiting flight into known icing conditions. With the limited deicing equipment of the affected airplanes, flight into known icing conditions could result in unusual flight characteristics leading to loss of control with consequent accidents. The proposed rule would also require owners or operators to install a second placard that increases published speed on approach by 17 mph (15 knots) in case of an inadvertent encounter with icing. Many of the Cessna accidents were the result of high sink speeds, which may have been related to icing, resulting in hard landings. Failure to mandate an increased published speed may result in continuing occurrences of this unusual flight characteristic with consequent accidents.

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

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

3. A Description of and an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

The airplanes affected by the proposed AD are the 4,206 U.S.-registered Cessna twin-engine airplanes with certain serial numbers among Models 310, 320, 340, 401, 402, 411, 414, and 421 specified in Cessna Service Bulletin MEB97–4.

To obtain information on small entities affected by the AD, we emailed a questionnaire directly to seven firms with the largest number of airplanes listed in Cessna Service Bulletin MEB97–4 and received responses from six of these firms—the Small Sample. Separately, the Aircraft Owners and Pilots Association (AOPA) conducted an online survey and received 198 responses from owners with affected airplanes. This sample was reduced to 104 entities—the Large Sample—by eliminating 94 responses from individuals who used their airplanes for personal use only.

Employment size in the Small Sample ranges from 6 to 48, with a median of 16.75. For the Large Sample 84 out of 104 respondents reported employment size, ranging from 1 to 1,000, with a median of 6. Since, as noted, personal use appears to account for about half of the airplanes listed in Cessna Service Bulletin MEB97–4, we estimate the number of small entity airplanes affected by the AD to be half of 1,608 or 804.

As to type of operations, the Large Sample indicates only if the owner's airplane(s) are for ''Corporate'' or ''Charter'' use. All of the firms in the Small Sample engage in part 135 operations of one kind or another—on demand air charter, cargo and/or passenger, or scheduled freight. The Small Business Administration (SBA) classifies part 135 operations into NAICS industries 481111, Scheduled Passenger Air Transportation; 481112, Scheduled Freight Air Transportation, 481211, Nonscheduled Passenger Air Transportation; and 481212, Nonscheduled Freight Air Transportation.

For all of these industries, the SBA maximum small business size is 1,500 employees. All of the entities in both samples are well below 1,500 employees. Accordingly, we conclude that the proposed rule would affect a substantial number of small entities.

4. Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

Small entities will incur no new reporting and recordkeeping requirements as a result of this rule.

An Initial Regulatory Flexibility Analysis was not undertaken prior to issuance of the NPRM (76 FR 32105), June 3, 2011, as the FAA initially determined that the cost of the proposed rule was minimal, being just the cost of placard installation. However, as a result of comments to the NPRM docket, it became apparent to the FAA that there may be significant additional costs for the subset of the affected airplanes with optional deicing equipment. Several commenters to the NPRM docket argue that affected airplanes with deicing equipment can be safely operated in light or moderate icing conditions. They further argue that to be prohibited from doing so would severely restrict their operations and impose significant costs.

As a result of these comments, we surveyed Cessna Twin operators and independently estimated the cost on operators by the proposed prohibition on flight into known icing. We approximated this cost by estimating the cost to operators of substituting airplanes certificated for flight into known icing for their current airplanes. In response to a request from the FAA, Cessna undertook a sample survey and estimated that 38.23 percent of the airplanes listed in Cessna Service Bulletin MEB97–4 were equipped with deicing boots. Most of these airplanes also have deicing propellers. Applying that percentage to our airplane count of 4,206, we obtain an estimate of 1,608 AD-affected airplanes whose operators would be affected by the prohibition on flight into known icing, half of which, 804, are entities (commercial operators).

Our estimate per airplane of the present value cost of the proposed rule is $60,277, with an annualized cost estimate to be $8,582. The IRFA provides further cost information, which can be found in the docket.

5. Duplicative, Overlapping or Conflicting Federal Rules

The FAA is unaware of any Federal rules that duplicate, overlap, or conflict with this proposed rule.

6. Significant Alternatives to the Proposed Rule

Owing to the existing unsafe conditions, however, there is no feasible significant alternative to prohibiting the affected airplanes from flying into known icing conditions. And there is no significant alternative to mandating an increase in published speed on approach.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this rulemaking. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0562; Directorate Identifier 2011–CE–015–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this rulemaking action. The most helpful comments will reference a specific portion of the IRFA or related rulemaking document, explain the reason for any recommended change, and include supporting data.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will address all comments in the final rule including those already in the docket from the NPRM. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Issued in Kansas City, Missouri, on September 24, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24129 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 771

FHWA RIN 2125–AF46

Federal Transit Administration

49 CFR Part 622

[Docket No. FHWA–2012–0092]

FTA RIN 2132–AB04

Environmental Impact and Related Procedures

AGENCY: Federal Highway Administration, Federal Transit Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This NPRM provides interested parties with the opportunity to comment on proposed changes to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) joint procedures that implement the National Environmental Policy Act (NEPA). The revisions are prompted by enactment of Public Law 112–141, 126 Stat. 405, the *Moving Ahead for Progress in the 21st Century Act* (MAP–21). This NPRM proposes to modify an existing categorical exclusion (CE) for emergency repair projects under 23 U.S.C. 125 to include emergency projects as described in Section 1315 of MAP–21. This NPRM also requests comments on whether additional activities ought to be expressly included in the CE, consistent with the principles underlying emergency projects and sound transportation asset management. The FHWA and the FTA seek comments on the proposals contained in this notice.

DATES: Comments must be received on or before November 30, 2012.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001;
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329;
- Instructions: You must include the agency name and docket number DOT–FHWA– or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For the Federal Highway Administration: Adam Alexander, Office of Project Delivery and Environmental Review, HEPE–10, (202) 366–1473, or Jomar Maldonado, Office of the Chief Counsel, (202) 366–1373, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. For the Federal Transit Administration: Megan Blum at (202) 366–0463, Office of Planning and Environment (TPE); or Dana Nifosi at (202) 366–4011, Office of Chief Counsel (TCC), Federal Transit Administration. Office hours are from 8 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2012, President Obama signed into law MAP–21, which contains new requirements that the FHWA and the FTA must meet in complying with NEPA (42 U.S.C. 4321–4347). One of these requirements, in Section 1315(a), is that the FHWA and the FTA, acting on behalf of the Secretary, must publish an NPRM to categorically exclude the repair or reconstruction of any road, highway, or bridge damaged by an emergency that is either (1) declared by the Governor of the State and concurred in by the Secretary of Transportation; or (2) declared by the President under the Stafford Act if such repair or reconstruction activity is in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration; and is commenced within a 2-year period beginning on the date of the declaration. Currently, 23 CFR 771.117(c)(9) categorically excludes emergency repairs made during and immediately following a disaster to restore essential traffic, minimize the extent of the damage, or to protect the remaining facilities if the work is eligible under 23 U.S.C. 125.

In addition, pursuant to Section 1315(b) of MAP–21, the FHWA and the FTA must ensure that the rulemaking helps to conserve Federal resources and protects public safety and health by providing for periodic evaluations to determine whether reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities. ''Reasonable alternatives'' is defined in Section 1315(b)(2) as including actions that could reduce the need for Federal funds to be expended on such repair and reconstruction activities, better protect public safety and health and the environment, and meet transportation needs as described in relevant and applicable Federal, State, local, and tribal plans. There are no equivalent requirements in the FHWA/FTA environmental regulation to perform periodic review or a consideration of alternatives as outlined in Section 1315(b).

General Discussion of the Proposals

The FHWA and the FTA propose to address Section 1315(a) within 23 CFR Part 771 by revising Section 771.117(c)(9) by changing the heading for paragraph (9) to ''Emergencies'' and adding two new provisions under paragraph (9) describing the covered actions. New paragraph (9)(i) would include all emergency repairs under 23 U.S.C. 125, which is the same language used in the CE for emergency repairs under the existing Section 771.117(c)(9). New paragraph (9)(ii) would add the actions described in MAP–21 Section 1315(a), which include emergency repair or reconstruction activities for any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or for a disaster or emergency declared by the President under the Robert T. Stafford Act (42 U.S.C. 5121), subject to the conditions specified in the remainder of the proposed section 771.117(c)(9)(ii). Such conditions are that the repair or reconstruction under section 771.117(c)(9)(ii) must be in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the emergency declaration, and the work must be commenced within a 2-year period beginning on the date of the emergency declaration.

The FHWA and the FTA also seek comments on whether language should be added to the new CE to make it apply to certain types of activities that, in some cases, might be considered outside the scope of both the current emergency CE in Section 771.117(c)(9) and the language of Section 1315(a). The FHWA and the FTA are interested in comments that identify additional activities that would be important to include in an emergency repair project that do not typically involve significant environmental impacts. Specifically, the FHWA and the FTA seek comments on whether the emergency activities categorically excluded under the revised CE also should include: (1) Construction of engineering and design changes to a damaged facility to meet current design standards; (2) repair and reconstruction of adjacent transportation facilities within the right-of-way damaged by the emergency (such as bike paths or ancillary structures); (3) construction of betterments to the damaged facilities beyond those eligible under 23 U.S.C 125; (4) construction of engineering and design changes to a damaged facility for the purpose of seismic retrofitting; (5) construction of engineering and design changes to a damaged facility to deal with future extreme weather events and sea level rise; and (6) construction of other engineering and design changes to a damaged facility to address concerns such as safety and environmental impacts. The agencies also seek comment on whether the CE should include actions to repair, reconstruct, or replace a facility that has experienced catastrophic failure regardless of cause. A catastrophic failure is considered to be the sudden and complete failure of a major element or segment of the facility that causes a devastating impact on transportation services. The FHWA and the FTA seek comments from grantees about their experiences with these kinds of projects and activities described in this paragraph and the environmental impacts of such projects.

The requirements in Section 1315(b) of MAP–21 will be addressed through questions presented in this NPRM and then more specifically through rulemaking for other relevant sections of MAP–21. The MAP–21 creates requirements for both the FHWA and the FTA to develop asset management and other programs. For the FHWA, MAP–21 Section 1106 creates a new requirement for States to develop risk-based asset management plans pursuant to 23 U.S.C. 119. The FHWA proposes to address the requirements of Section 1315(b) in the implementing regulations for MAP–21 Section 1106. The FHWA will also consider comments received in response to this NPRM in upcoming rulemaking proceedings to address other MAP–21 requirements related to asset management and the emergency relief program.

The FTA proposes to address the requirements of Section 1315(b) through rulemaking to implement other MAP–21 provisions for transit projects. Including proposed regulations to address 1315(b) in other FHWA and FTA rulemakings would incorporate the periodic review and evaluation of alternatives in a program management process, which the FHWA and the FTA believe is the appropriate approach to achieve the most effective results.

The FHWA and the FTA will use this rulemaking to obtain input on how to best approach the periodic evaluations required under Section 1315(b). With respect to Section 1315(b) of MAP–21, the FHWA and the FTA specifically seek comment on the following questions regarding approaches to the requirement for periodic evaluations to determine whether reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities:

(1) Is it appropriate to incorporate the Section 1315(b) review into any periodic evaluation of transportation assets conducted by the State for its risk-based asset management plan developed pursuant to 23 U.S.C. 119, or into similar transit programs? Are there other periodic reviews for either highways or transit into which the Section 1315(b) review could be incorporated?

(2) How frequently should the evaluations be conducted? Should a time frame be specified in the regulation, or remain at the discretion of the State or transit agency?

(3) How should the evaluations consider the risk of recurring damage and the cost of future repair under both current and future environmental conditions?

(4) What factors ought to be considered in the evaluations to assess the risk of recurring damage, the protection of public safety and health and the environment, and the cost of future repairs?

Section-by-Section Discussion of the Proposals

This proposal would amend 23 CFR 771.117(c)(9) by changing the heading for paragraph (9) to ''Emergencies'' and adding two new provisions under paragraph (9) describing the covered actions. The new paragraph (9)(i) would include all emergency repairs under 23 U.S.C. 125, which is the same language used in the CE for emergency repairs under the existing Section 771.117(c)(9). The new subparagraph (9)(ii) would add the new covered actions described in MAP–21 Section 1315(a) by adding emergency repair or reconstruction activities for any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or for a disaster or emergency declared by the President under the Robert T. Stafford Act (42 U.S.C. 5121), subject to the conditions specified in the subsection. The conditions would appear in two subparagraphs under the proposed 23 CFR 771.117(c)(9)(ii), and would require the repair or reconstruction under the CE be in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the emergency declaration, and the work must be commenced within a 2-year period beginning on the date of the emergency declaration. These conditions are required under Section 1315(a).

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA and the FTA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Orders 12866 and 13563 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The FHWA and the FTA have determined preliminarily that this action would not be a significant regulatory action under section 3(f) of Executive Order 12866 nor would it be significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11032). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It is anticipated that the economic impact of this rulemaking would be minimal. The changes that this rule proposes are requirements mandated by MAP–21 intended to streamline environmental review by making changes in the agencies' environmental review procedures. The activities this NPRM proposes to add to section 771.117(c)(9), which are described in Section 1315(a), are inherently limited in their potential to cause significant environmental impacts. These proposed changes would not adversely affect, in any material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 60l–612), the FHWA and the FTA have evaluated the effects of this proposed rule on small entities and anticipate that this action would not have a significant economic impact on a substantial number of small entities. The proposed revision could streamline environmental review and thus would be less than any current impact on small business entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $148.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the agencies will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA and the FTA have determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA and the FTA have also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. We invite State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific proposals may have on State or local governments.

Executive Order 13175 (Tribal Consultation)

The FHWA and FTA have analyzed this action under Executive Order 13175, dated November 6, 2000, and believe that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA and the FTA have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Accordingly, the FHWA and the FTA solicit comments on this issue.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA and the FTA have determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

The FHWA and FTA have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA and the FTA certify that this action would not concern an environmental risk to health or safety

that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA and the FTA do not anticipate that this action would affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

Agencies are required to adopt implementing procedures for NEPA that establish specific criteria for, and identification of, three classes of actions: Those that normally require preparation of an environmental impact statement; those that normally require preparation of an environmental assessment; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). The Council on Environmental Quality (CEQ) regulations do not direct agencies to prepare a NEPA analysis or document before establishing agency procedures (such as this regulation) that supplement the CEQ regulations for implementing NEPA. The CEs are one part of those agency procedures, and therefore establishing CEs does not require preparation of a NEPA analysis or document. Agency NEPA procedures are generally procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing CEs does not require NEPA analysis and documentation was upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd,* 230 F.3d 947, 954–55 (7th Cir. 2000). Finally, this action is intended to streamline the environmental process for reviewing proposed highway and transit projects, including projects that will be environmentally beneficial. It is consistent with, and promotes the purposes of, Executive Order 13604 (Improving Performance of Federal Permitting and Review of Infrastructure Projects).

Regulation Identification Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 622

Environmental impact statements, Energy conservation, Grant programs—transportation, Public transit, Recreation areas, Reporting and recordkeeping requirements.

23 CFR Part 771

Environmental impact statements, Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the FHWA and the FTA propose to amend title 49, Code of Federal Regulations part 622 and title 23, Code of Federal Regulations part 771 as follows:

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

1. The authority citation for part 622 is revised to read as follows:

Authority: 42 U.S.C. 4321 et seq.; 49 U.S.C. 303, 5301(a) and (e), 5323(b), and 5324; 23 U.S.C. 139 and 326; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; 40 CFR parts 1500–1508; 49 CFR 1.51; and Pub. L. 112–141, 126 Stat. 405, sections 1315 and 20017.

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

2. The authority citation for part 771 is revised to read as follows:

Authority: 42 U.S.C. 4321 et seq.; 23 U.S.C. 106, 109, 128, 138, 139, 315, 325, 326, and 327; 49 U.S.C. 303, 5301(a) and (e), 5323(b), and 5324; 40 CFR Parts 1500–1508; 49 CFR 1.48(b) and 1.51; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; Pub. L. 112–141, 126 Stat. 405, sections 1106 and 1315.

3. Amend § 771.117 by revising paragraph (c)(9) to read as follows:

§ 771.117 Categorical exclusions.

(c)(9) Emergencies

(i) Emergency repairs under 23 U.S.C. 125.

(ii) The repair or reconstruction of any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121) if the repair or reconstruction activity is:

(A) In the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration, and

(B) Commenced within a 2-year period beginning on the date of the declaration.

* * * * *

Issued on: September 21, 2012.

The date of issuance is the signature date.

Victor M. Mendez,

Administrator, Federal Highway Administrator.

Peter Rogoff,

Administrator, Federal Transit Administration.

[FR Doc. 2012–23916 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–130266–11]

RIN 1545–BK57

Additional Requirements for Charitable Hospitals; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on notice proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations that provide guidance regarding the requirements for charitable hospital organizations relating to financial assistance and emergency medical care policies, charges for certain care provided to individuals eligible for financial assistance, and billing and collections.

DATES: The public hearing is being held on Monday, October 29, 2012, at 10:00 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Friday, October 12, 2012.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–130266–11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–130266–11),

Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (REG–130266–11).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Amber L. Mackenzie or Preston J. Quesenberry at (202) 622–6070; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Oluwafunmilayo Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–130266–11) that was published in the **Federal Register** on Tuesday, June 26, 2012 (77 FR 38148).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by September 24, 2012, must submit an outline of the topics to be addressed and the amount of time to be denoted to each topic.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW., entrance, 1111 Constitution Avenue NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2012–24115 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1102; EPA–R05–OAR–2008–0782; FRL–9714–6]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; PBR and PTIO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve six Permit-by-Rule provisions, a Permit to Install and Operate program, two permanent exemptions from the Permit to Install requirement and a general permit program as additions to Ohio's State Implementation Plan under the Clean Air Act. The Ohio Environmental Protection Agency has requested these rule revisions to make its air pollution permit program more efficient. Approving these additions will make the Permits by Rule, Permits to Install and Operate and general permits federally enforceable. Because these rule revisions will make Ohio's air permit program more efficient while continuing to protect human health and the environment, EPA is taking direct final action to approve the revisions.

DATES: Comments must be received on or before October 31, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1102; EPA–R05–OAR–2008–0782, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: gupta.kaushal@epa.gov.*
3. *Fax:* (312) 697–2009.
4. *Mail:* Kaushal Gupta, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Kaushal Gupta, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Kaushal Gupta, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6803, *gupta.kaushal@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: July 20, 2012.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2012–23983 Filed 9–28–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R10–RCRA–2011–0973; FRL–9706–9]

Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to codify in the regulations entitled ''Approved State Hazardous Waste Management Programs,'' Idaho's authorized hazardous waste program. The EPA

proposes to revise the codification of Idaho's program to incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State rules and regulations that are authorized as of June 11, 2012, and that the EPA will enforce under Subchapter C of the Resource Conversation and Recovery Act (RCRA).

DATES: Send written comments by October 31, 2012.

ADDRESSES: Send written comments to Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT–122, Seattle, WA 98101. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM–122, Seattle, WA 98101, Email: *kocourek.nina@epa.gov*, phone number (206) 553–6502.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA believes this action is not controversial and does not expect comments to oppose the codification. We have explained the reasons for this codification and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the direct final rule will become effective on the effective date described in the direct final rule and we will not take further action on this proposal. If the EPA receives comments that oppose the codification, the EPA will withdraw the direct final rule and it will not take effect. EPA will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time. For additional information, please see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste and Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 24, 2012.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

[FR Doc. 2012–23976 Filed 9–28–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1204]

Proposed Flood Elevation Determinations for Coos County, OR, and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Coos County, Oregon, and Incorporated Areas.

DATES: This withdrawal is effective October 1, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1204, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

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

SUPPLEMENTARY INFORMATION: On July 22, 2011, FEMA published a proposed rulemaking at 76 FR 43968, proposing flood elevation determinations along one or more flooding sources in Coos County, Oregon. FEMA is withdrawing the proposed rulemaking and intends to publish a Notice of Proposed Flood Hazard Determinations in the **Federal Register** followed by a notice in the affected community's local newspaper in the near future.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–24008 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1221]

Proposed Flood Elevation Determinations for the City of McCleary, WA

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations in the City of McCleary, Washington.

DATES: This withdrawal is effective October 1, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1221, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

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

SUPPLEMENTARY INFORMATION: On October 5, 2011, FEMA published a proposed rulemaking at 76 FR 61649, proposing flood elevation determinations along one or more flooding sources in the City of McCleary, Washington. FEMA is withdrawing the proposed rulemaking and intends to publish a Notice of Proposed Flood Hazard Determinations in the **Federal Register** followed by a notice in the affected community's local newspaper in the near future.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–23951 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 7

[Docket No. USCG–2011–0925]

Special Load Line Exemption for the Gulf of Mexico: Petition for Rulemaking

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of a petition for rulemaking, and requests public comment accordingly. The petition was submitted by a river barge operator, who requests that the Coast Guard establish a special load line exemption on the Gulf of Mexico. The requested exemption would allow non-load line river barges to transit along the west coast of Florida, en route to/from Tampa Bay.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before December 31, 2012, or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0925 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Mr. Thomas Jordan, Naval Architecture Division (CG–ENG–2), U.S. Coast Guard Headquarters, at telephone 202–372–1370, or by email at *thomas.d.jordan@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:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the rulemaking petition for a special load line exemption on the Gulf of Mexico. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this notice (USCG–2011–0925) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* enter ''USCG–2011–0925'' in the ''Search'' box and click ''Search'', then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the Rulemaking Petition and Comments

To view the petition and comments that have been submitted to the docket, go to *http://www.regulations.gov*, enter ''USCG–2011–0925'' in the ''Search'' box and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket in person by visiting 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

The rulemaking petition requests that the Coast Guard establish a special load line-exempted route along the west coast of Florida, which would allow non-load line river barges to transit to/from Tampa Bay. The action requested by the petition pertains to current load line regulations, the extent of the Boundary Line in the Gulf of Mexico, and the use of non-load line river barges on a coastwise route. These are discussed further below.

Load line assignment. Most commercial vessels that are 79 feet in length or longer, and that proceed on domestic or international voyages outside the U.S. Boundary Line, must be assigned a load line. The purpose of load line assignment is to ensure the overall seaworthiness of the vessel. This is accomplished through the application of several design and construction requirements, such as: Robust hull construction that can withstand severe sea conditions; protection of critical openings (such as hatchways, doors, ventilators, etc.) with weathertight or watertight closures; ensuring that the vessel has adequate stability and strength for all operating conditions; and limiting the loaded draft (by use of load line marks) to ensure that the vessel is not overloaded and has reserve buoyancy.

Furthermore, the vessel must be surveyed annually (by a surveyor from the load line assigning authority) to verify that all of these features are maintained in operable condition, and that no damage or modification has been done to the vessel that compromises its seaworthiness. The benefit in meeting these requirements is that the vessel is considered safe and seaworthy enough for offshore voyages, even under severe weather conditions. This gives the

operator maximum flexibility in the commercial employment of the vessel. There are costs associated with load line assignment, however: Higher construction cost for the vessel, and the cost of the annual surveys.

Because river barges are not exposed to any sea conditions, they are not typically constructed to meet the load line standards for coastwise or offshore service. Although this makes them less expensive to build and operate, they do not qualify for load line assignment and therefore are not normally permitted to operate outside the Boundary Line.

(More information on load lines and the Boundary Line can be found on the Coast Guard's load line Web site at: *http://www.uscg.mil/hq/cg5/cg5212/loadlines.asp*)

Boundary Line in the Gulf of Mexico. Most commercial vessels become subject to load line requirements when they cross outside the U.S. Boundary Line (which is delineated in 46 CFR Part 7). In the Gulf of Mexico between the Marquesas Keys, FL, and the mouth of the Rio Grande River, TX, the Boundary Line is located 12 nautical miles offshore. This effectively creates a nearshore marine corridor where non-load line vessels, including river barges, may proceed between ports along the Gulf coast. The premise behind this is that weather conditions in the Gulf are generally benign enough, and places of refuge are close enough at hand, that non-load line vessels can safely operate along the coast, and readily evade bad weather if necessary.

However, there is a stretch of shallow water—as denoted by the 12-foot water depth contour—extending ten to twelve miles offshore along the western coast of Florida between Crystal River and Tarpon Springs. These water depths are relatively shallow for commercial shipping, and severely constrict the non-load line corridor. To stay within sufficient depth of water along this shallow stretch, a vessel may need to transit outside the Boundary Line, thereby necessitating a load line assignment.

Petition for a special load line exemption. In order to extend the existing non-load line nearshore corridor all the way to Tampa Bay, Parker Towing Company, Inc. (Parker Towing), has submitted to the Coast Guard a rulemaking petition to create a load line-exempted route outside the Boundary Line along the western coast of Florida. The Parker Towing petition can be viewed in the docket, but to summarize: The proposed exempted route extends for approximately 32 nautical miles, between Crystal River and Tarpon Springs, FL. At its furthest point, the exempted route would be three nautical miles outside the 12-mile Boundary Line. In addition to the route, the petition also proposes to limit the exemption to unmanned barges, carrying non-hazardous and non-liquid cargoes, under restricted weather conditions. The benefit of the exemption is that it would allow non-hazardous cargoes to be loaded onto ordinary, non-load line river barges at upriver terminals in Alabama, Louisiana, Mississippi, and Texas, for direct delivery to Tampa Bay, FL terminals.

The petition also discusses the ''M–10 Marine Highway Corridor.'' This pertains to a transportation study by the U.S. Department of Transportation Maritime Administration (MarAd) of coastal shipping routes that could be utilized to alleviate trucking congestion on overland highways (in this case, the I–10 interstate corridor through the Gulf coast states). More information on America's Marine Highway Program is posted on the MarAd AMH Web site at: *http://www.marad.dot.gov/ships_shipping_landing_page/mhi_home/mhi_home.htm.*

Other Similar Load Line Exemption Regimes

Although river barges are not normally permitted to operate outside the U.S. Boundary Line, there are a few limited routes where they are permitted to operate under restricted conditions. The exemption proposed in the Parker Towing petition is similar to a load line exemption regime established for river barges operating on Lake Michigan (per 46 CFR 45.171, *et seq.*, a copy of which is included in the docket).

Request for Comments

In deciding whether or not to move forward with the requested rulemaking, the Coast Guard must consider several issues: the safety of the operation, protection of the marine environment, resource demands on the Coast Guard (particularly compliance verification and enforcement), and the potential economic costs and benefits.

Public comments on these issues, as well as other points that are pertinent to this petition, are encouraged. Upon review, the Coast Guard will decide whether or not to proceed with a rulemaking to establish the proposed exempted route.

This notice is issued under authority of 5 U.S.C. 552(a) and 46 U.S.C. 5108.

Dated: September 10, 2012.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2012–23883 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–237; RM–11672; DA 12–1421]

Radio Broadcasting Services; Tignall, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules. The Commission requests comment on a petition filed by Georgia-Carolina Radiocasting Company, LLC, proposing to amend the Table of Allotments by substituting Channel 287A for vacant Channel 244A, at Tignall, Georgia. The proposal is part of a contingently filed ''hybrid'' application and rule making petition. Channel 287A can be allotted at Tignall, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction 12.6 km (7.8 miles) south of Tignall, at reference coordinates 33–45–22 North Latitude and 82–42–56 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: The deadline for filing comments is October 22, 2012. Reply comments must be filed on or before November 6, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Dan J. Alpert, Esq., Law Offices of Dan J. Alpert, 2120 21st Road N., Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 12–237, adopted August 29, 2012, and released August 31, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street SW.,

Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 244A and adding Channel 287A at Tignall.

[FR Doc. 2012–24139 Filed 9–28–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120710231–2473–01]

RIN 0648–BC33

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Atlantic Sea Scallop Fishery; Proposed Emergency Action

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to partially exempt the scallop fishery from fishing year 2012-related Georges Bank yellowtail flounder accountability measures. This action is being proposed to respond to a request for emergency rulemaking from the New England Fishery Management Council (Council). This proposed action is intended to provide an explanation of how the partial exemption would function; outline how the proposed action satisfies Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) emergency rulemaking criteria; and to solicit public input on the proposed exemption.

DATES: Comments must be received on or before October 31, 2012.

ADDRESSES: You may submit comments on this document, identified by ''NOAA–NMFS–2012–0179,'' 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–2012–0179 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 John K. Bullard, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930.
- *Fax:* (978) 281–9135.

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.

Copies of the draft environmental assessment (EA) prepared for this action by NMFS are available from John K. Bullard, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. The EA is accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, phone: 978–281–9104.

SUPPLEMENTARY INFORMATION:

Background

In New England fisheries, catch limits are developed by the Council and recommended for implementation through rulemaking by NMFS. When established catch limits are exceeded, various accountability measures (AMs) are triggered. These AMs modify subsequent years' fishing opportunities to prevent future overages so that overfishing does not occur. Catch limits and AMs are both requirements of the Magnuson-Stevens Act.

Georges Bank (GB) yellowtail flounder is found on both sides of the international maritime border between the United States and Canada, the Hague Line, and is a U.S./Canada shared stock. The Council's process for developing the catch limit for GB yellowtail flounder is done in conjunction with Canada through a formal understanding between both countries (i.e., the U.S./Canada Resource Sharing Understanding, commonly referred to as ''the Understanding''). This Understanding provides a process for collaborative scientific stock assessments, as well as a management allocation framework for distributing catch allowances to both countries.

The 2012 fishing year total catch limit for GB yellowtail flounder, recommended by the Council and

implemented by NMFS, for the U.S. fishery is 547.8 metric tons (mt). Within this catch limit, the groundfish fishery was allocated an individual fishery catch limit, called the sub-annual catch limit (ACL), of 217.7 mt; the scallop fishery's initial limit was 307.5 mt; and 22.6 mt were provided for the other sub-component fisheries. The other sub-component fisheries are those not targeting either groundfish or scallops but that incidentally catch GB yellowtail flounder, such as the summer flounder trawl fishery.

During the April 25, 2012, Council meeting in Mystic, CT, members of the groundfish fishing industry expressed concern to the Council that the 2012 groundfish GB yellowtail flounder sub-ACL of 217.7 mt was too low. The concerned parties stated that the catch limit was so low that it would effectively prevent fishermen from targeting more abundant, healthy stocks such as haddock. Given this concern and indications that the scallop fishery sub-ACL for GB yellowtail flounder may be higher than needed by the scallop fishery in light of more current catch projections information, the Council requested that NMFS create a GB yellowtail flounder working group to explore the possibilities of increasing the amount of GB yellowtail sub-ACL allocated to the groundfish fishery. The request suggested that the working group include members from the Transboundary Management Guidance Committee (TMGC), Council Groundfish and Scallop Committees, and NMFS and Council staff. The Council requested that the working group revisit the FY 2012 sub-ACLs for the scallop and groundfish fisheries based on new information suggesting that the projections of GB yellowtail flounder catch in the scallop fishery were much higher than needed, and to consider modification of the U.S. and Canadian shares of GB yellowtail flounder established through the Understanding.

In response to this request, NMFS formed a working group consistent with the Council's request. NMFS also invited the fishing industry, non-governmental organization representatives, and the general public to the working group meetings. The working group held teleconferences on May 11, 2012, and May 18, 2012, a 1-day workshop in New Bedford, MA, on May 23, 2012, and teleconferences on May 31, 2012, and June 15, 2012. During these five meetings, the working group discussed a range of short-term and long-term measures for GB yellowtail flounder management, in addition to the Council requests made at its April 2012 meeting. The working group recognized that the most effective short-term tool to address the Council's request was to utilize existing regulatory authority to revise sub-ACLs allocated to the scallop and groundfish fisheries for GB yellowtail flounder. To determine the feasibility and magnitude of potential revisions of the scallop and groundfish sub-ACLs, the working group asked for updated projections by NMFS's Northeast Fisheries Science Center (NEFSC) of expected catch of GB yellowtail flounder in FY 2012 by the scallop fishery. In addition, the working group discussed the concept of exempting the scallop fishery from any scallop fishery sub-ACL revision AM if the sub-ACLs were revised based on the updated information.

In addition to the working group meetings, the Council's Groundfish and Scallop Committees convened jointly on June 18, 2012, in Portland, ME, to discuss the Council's original requests and review the discussions from the working group. On that same date, the NEFSC provided revised projections of GB yellowtail flounder catch by the scallop fishery ranging from 47.6 mt to 174.3 mt, with a median projection of 105.2 mt. Using these new projections, the Joint Committee recommended to the Council that it request that NMFS use its current regulatory authority to reduce the scallop GB yellowtail flounder sub-ACL to 90 percent of the 174.3 mt high-end estimate provide by NEFSC (i.e., 156.9 mt), and increase the groundfish GB yellowtail flounder sub-ACL by the amount of this reduction. The recommendation was to decrease the scallop sub-ACL from 307.5 mt to 156.9 mt and increase the groundfish sub-ACL from 217.7 mt to 368.3 mt. The Joint Committee also recommended that the Council request emergency action to relieve the scallop fishery from any fishing year 2012 AM triggered by GB yellowtail flounder catch less than 307.5 mt that would otherwise be required under the existing regulations. At its June Council meeting, the Council adopted the Joint Committee recommendations and forwarded them to NMFS for evaluation and implementation.

On July 16, 2012, NMFS used its existing authority to revise the fishing year 2012 GB yellowtail flounder sub-ACLs for the groundfish and scallop fisheries, consistent with the Council's request. The other sub-component sub-ACL was not revised, and remains 22.6 mt.

TABLE 1—INITIAL AND REVISED FY 2012 GB YELLOWTAIL FLOUNDER CATCH LIMITS IN METRIC TONS

	Total ACL	Groundfish fishery sub-ACL	Scallop fishery sub-ACL	Other sub-component sub-ACL
Initial	547.8	217.7	307.5	22.6
Revised	547.8	368.3	156.9	22.6

This adjustment increased the groundfish sub-ACL to 368.3 mt and decreased the scallop sub-ACL to 156.9 mt. NMFS announced, in conjunction with the sub-ACL revision, its intention to propose the Council-recommended AM exemption for the scallop fishery.

Proposed Action

The current regulatory language allows NMFS to evaluate GB yellowtail flounder catch in the scallop fishery relative to the revised sub-ACL of 156.9 mt. Thus, if no action is taken, the scallop fishery could be subject to an AM if the FY 2012 catch of GB yellowtail flounder in the scallop fishery exceeds 156.9 mt. The AM for the scallop fishery can become necessary under two scenarios: If the scallop fishery exceeds its GB yellowtail flounder sub-ACL by more than 50 percent, or if the scallop sub-ACL is exceeded by 1 or more pounds and the total GB yellowtail flounder fishery ACL is also exceeded by 1 or more pounds. The AM for the scallop fishery is found in 50 CFR Section 648.64. Generally, the scallop fishery AM for GB yellowtail flounder implements time and area closures based on the magnitude of the overage to decrease fishery access in a subsequent fishing year.

This proposed emergency action, requested by the Council, would exempt the Atlantic sea scallop fishery from any AM specified for catch of GB yellowtail flounder exceeding the revised scallop fishery sub-ACL of 156.9 mt up to the

initial sub-ACL level of 307.5 mt. Any GB yellowtail flounder overage in the scallop fishery above 307.5 mt would result in an AM being implemented. The following table summarizes the actions proposed to be implemented by NMFS through this emergency rulemaking.

TABLE 2—PROPOSED FY 2012 SCALLOP FISHERY GB YELLOWTAIL FLOUNDER CATCH AND ACCOUNTABILITY ACTIONS

Yellowtail catch in the scallop fishery	Description	Accountability action
Less than156.9 mt	Below revised sub-ACL	None.
Greater than 156.9 mt but below 307.5 mt	Exceeds revised sub-ACL (post transfer); below initial sub-ACL.	None under proposed exemption.
Greater than 307.5 mt	Exceeds initial sub-ACL	Implemented, as required by regulation.

Accountability at the fishery level remains unchanged by this proposed action. Any overage of the 547.8-mt fishery level ACL is to be repaid pound-for-pound in a subsequent fishing year. Overages at the fishery level ACL could be the result of excess taken by the groundfish, scallop, other sub-component fisheries, or some combination of those three.

Authority for Proposed Action, Including Emergency Action Justification

Section 305 of the Magnuson-Stevens Act authorizes the Secretary of Commerce (Secretary) to act if: (1) The Secretary finds that an emergency involving a fishery exists; (2) the Secretary finds that interim measures are needed to reduce overfishing in any fishery; or (3) if the Council finds one of those factors exists and requests that the Secretary act. Where such circumstances exist, the Secretary may promulgate emergency rules or interim measures ''to address the emergency or overfishing.'' (16 U.S.C. 1855(c)(1) and (2)). The Secretary has delegated this authority to NMFS. Further, NMFS has issued guidance defining when ''an emergency'' involving a fishery exists (62 FR 44421; August 21, 1997). This guidance defines an emergency as a situation that (1) arose from recent, unforeseen events; (2) presents a serious conservation problem in the fishery; and (3) can be addressed through interim emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and the deliberative consideration of the impacts on participants to the same extent as would be expected under the formal rulemaking process. NMFS policy guidelines further provide that emergency action is justified for certain situations where emergency action would prevent significant direct economic loss, or to preserve a significant economic opportunity that otherwise might be foregone. Under the statute and guidance, the rationale for issuing these emergency and interim regulations is as follows:

First, the magnitude of the recently revised projections of GB yellowtail flounder catch by the scallop fishery, coupled with the timing of and need for this revised projection, so relatively early in the scallop and groundfish FYs, meet the threshold criterion that the need for the emergency arises from recent, unforeseen events. The request by the Council to revise the groundfish and scallop sub-ACLs early in the fishing year, based on projections for Georges Bank yellowtail flounder catch in the scallop fishery, was not foreseeable. While the authority for making such revisions was granted to NMFS through Framework Adjustment 47 to the NE Multispecies FMP, the revision process was designed with the expectation that revisions to the sub-ACLs would occur late in the fishing season when current fishing year catch data are available for analysis. Second, given the magnitude of the reduction in the scallop sub-ACL at this point in the scallop fishery, and the inherent uncertainties in making such projections, which creates a much lower threshold for triggering AMs, it is necessary, to ensure fairness and equity in the consequences of this revision, that the scallop fishery not be unduly penalized for exceeding a sub-ACL revised midway through the fishing year. The Council's request to provide a partial exemption from the Georges Bank yellowtail flounder AM to the scallop fishery was also unforeseen. There are no regulatory provisions that provide any amount of exemption from AMs following revision of the sub-ACLs; thus, the Council's request was unexpected but understandable given the desire to maintain equitability between fisheries. The emergency will also serve to enhance consistency with National Standard 4 of the Magnuson-Stevens Act regarding requirements for fishing measures to be fair and equitable, and National Standard 8 regarding the requirement to minimize adverse economic impacts. The third criterion relating to justifying an emergency without prior public comment is not relevant because this emergency rule provides prior notice and opportunity for public comment. It should be noted, however, that the Council process would likely be unable to develop and implement the proposed action on a timeframe that would provide the partial exemption. For this reason, emergency action provides a timely response to ensure adverse economic impacts are avoided.

It is important to understand that the revision of sub-ACLs, while contemplated within the authority provided by Framework Adjustment 47 to the NE Multispecies FMP, occurred early within the fishing year because of new projections of scallop catch based on updated 2011 observer and dealer data. The regulatory language for the revision process references examining catch data by January 15 of the fishing year. Framework 47 presumably envisioned an examination of 6–8 months of current fishing year catch data before adjusting the sub-ACLs, as necessary, with any revision based on the best available catch projection information for GB yellowtail flounder catch in the scallop fishery. This year, the sub-ACL adjustment was completed using the best available catch projection information, rather than 6–8 months of actual catch data in the scallop fishery. This means that there are more uncertainties associated with how accurate the actual catch will be over the course of the fishing year than there may have been if this revision was made much later in the fishing year. The projection indicates that the scallop fishery is expected to catch no less than 47.6 mt (low-end estimate) and no more than 174.3 mt (high-end estimate) of GB yellowtail flounder in the 2012 fishing year. The revised sub-ACLs are based on the high end of this projected range, which helps mitigate some of the uncertainties about the potential scallop harvest by basing the revisions on the projected ''worst case scenario'' for catch. Nevertheless, as more fully explained below, the inherent uncertainties associated with revising the scallop fishery sub-ACL for GB yellowtail flounder this early in the

fishing year is a major justification to adjust the triggering of AMs for the scallop fishery.

The scallop fishery is operating in a somewhat different manner this fishing year. The GB access areas are operating without a yellowtail flounder closure cap for the first time. The scallop fleet continues to use a proactive, near real-time system for avoiding yellowtail flounder; however, the negative implications for exceeding the catch projections and ultimately the sub-ACL are substantial. Although the scallop sub-ACL reflects a high-end projection of what is expected to be caught in fishing year 2012, the early adjustment of the sub-ACLs paired with the different operational constraints in the scallop fishery this year increase the uncertainty associated with the sub-ACL adjustment based on catch projections. Given these uncertainties, the scallop fleet may have operated differently in the first part of the fishing year had they known the sub-ACL would be so drastically modified. In order to ensure that both fleets may operate reasonably within the constraints of the total GB yellowtail flounder ACL, NMFS proposes to exempt the scallop fishery from accountability below the initial 307.5 mt level, as previously stated. This is necessary to ensure the scallop fishery is not penalized by the unanticipated early-season, large revision of the sub-ACLs, which occurred after the start of the fishing year.

Classification

The Administrator, Northeast Region, NMFS, determined that this emergency proposed rule is necessary for the conservation and management of the GB yellowtail flounder fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed emergency rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

In 2010 there were 347 permitted scallop vessels in the limited access category and 730 in the general category. Mean annual gross sales for vessels in the limited access category are just over $1 million, while for the general category this figure is slightly under $80K.

The small business size standard threshold for both shell and finfish fishing is gross sales above $4.0 million annually (13 CFR Section 121.201). Below this threshold, the SBA considers fishing businesses to be small entities. No individual vessel was estimated to gross more than $3 million in any one fishing year from 1994 to 2010; therefore, all of the vessels in the scallop fishery are considered small business entities.

This action, if implemented, effectively changes the point at which GB yellowtail flounder accountability measures are triggered for the scallop fishery. The AM is required by both the Scallop FMP and the Magnuson-Stevens Act, and must minimize the impact on small regulated entities to the extent practicable, while ensuring compliance with the regulatory and statutory requirements for fishery accountability.

Previous analysis conducted for Framework Adjustment 47 to the NE Multispecies FMP, which is available on the Council's Web site (*http://www.nefmc.org/nemulti/index.html*), concluded that less than 1 percent of total scallop fishery revenues came from areas potentially affected by the GB yellowtail flounder AM. Furthermore, the analysis concluded that a significant effect on profitability is likely to be minimal if the scallop fishery AM were triggered. Because all participating scallop vessels are deemed to be small regulated entities, there would be no disproportionate impacts.

As compared to the status quo, the proposed action reduces the likelihood that the scallop fishery GB yellowtail flounder AM will be triggered. Under the proposed action, the scallop fishery AM would be implemented under the following circumstances: (1) If the total ACL is not exceeded but the scallop fishery catch of GB yellowtail flounder exceeded 461.3 mt (i.e., exceeded 307.5 mt by 50 percent); or (2) if the total GB yellowtail flounder ACL is exceeded and the scallop fishery catch exceeds 307.5 mt. By comparison, the status quo would trigger the AM if: (1) The total GB yellowtail flounder ACL is not exceeded but the scallop fishery catch exceeds 235.0 mt (i.e., 50 percent above the 156.7 mt revised sub-ACL); or if the total fishery ACL is exceeded and the revised scallop sub-ACL of 156.7 is exceeded.

The potential impact to the groundfish fishery is the same under both the status quo and the proposed action. If the total fishery ACL is exceeded, a pound-for-pound repayment of the overage is required in a subsequent fishing year. The overage repayment provision is required by the NE Multispecies FMP, consistent with the Magnuson-Stevens Act and the U.S./Canada Resource Sharing Understanding.

The proposed action will reduce the likelihood that the scallop fishery AM may be triggered. The prior analysis concluded that the potential economic impacts of the scallop fishery AM, if triggered, are unlikely to be significant to the small entities of the scallop fishery. The potential impacts of the proposed action to the groundfish are the same as the status quo and, if necessary, minimized to the extent practicable consistent with the applicable requirements for the fishery. Because the proposed rule would reduce the likelihood of triggering the scallop fishery AM and would not increase the likelihood of adverse impacts to the groundfish fishery, it would not have a significant impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 25, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.90,

a. Suspend paragraph (a)(5)(iv); and

b. Add new paragraphs (a)(5)(v)(A) through (D) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a)* * *

(5)* * *

(v) *AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded.* At the end of the Atlantic sea scallop fishing year, NMFS shall evaluate Atlantic sea scallop fishery catch to determine overages.

(A) For stocks with established sub-ACLs, the determination will be made whether the Atlantic sea scallop fishery catch has exceeded the fishery sub-ACL.

(B) For fishing year 2012, the Georges Bank yellowtail flounder sub-ACL does not apply. Rather, the determination will be to evaluate if the Atlantic sea scallop fishery catch of Georges Bank yellowtail flounder exceeds 307.5 mt.

(C) On January 15, or when information is available to make an accurate projection, NMFS will also determine whether the overall ACL for each stock allocated to the Atlantic sea scallop fishery has been exceeded. When evaluating whether the overall ACL has been exceeded, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock.

(D) If catch by scallop vessels exceeds the pertinent sub-ACL specified in paragraph (a)(4)(iii)(C) of this section, or 307.5 mt for Georges Bank yellowtail flounder, by 50 percent or more, or if scallop catch exceeds the scallop fishery sub-ACL, or 307.5 mt for Georges Bank yellowtail flounder, and the overall ACL for that stock is also exceeded, then the applicable scallop fishery AM shall take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

* * * * *

[FR Doc. 2012–24160 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 77, No. 190

Monday, October 1, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0068]

General Conference Committee of the National Poultry Improvement Plan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to renew charter.

SUMMARY: We are giving notice that the Secretary of Agriculture intends to renew the charter of the General Conference Committee of the National Poultry Improvement Plan (Committee) for a 2year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. C. Stephen Roney, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 300, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large.

Done in Washington, DC, this 26th day of September 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–24109 Filed 9–28–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet on November 15, 2012, at 9:45 a.m. to 2:05 p.m. The meeting will be held in Sacramento California at the Sacramento Convention Center Complex. The purpose of this meeting is to convene for its first meeting of the 2013 fiscal year. The Council will discuss the 2013 grant cycle and process, preparation for the 10 year action plan revisions; work plan action items; communications; and accomplishment/recommendations report.

DATES: The meeting will be held on November 15, 2012, at 9:45 a.m. to 2:05 p.m. Pacific Standard Time.

ADDRESSES: The meeting will be at the Sacramento Convention Center, 1400 J. Street, Sacramento, California. Parking for the Sacramento Convention Center Complex is available at the city-operated Memorial Garage at 14th and H Streets and at privately owned vehicle lots and garages located within walking distance of the facilities. Parking rates vary by location.

Written comments concerning this meeting should be addressed to Nancy Stremple, Executive Staff to the National Urban and Community Forestry Advisory Council, 201 14th Street SW., Yates Building (1 Central) MS–1151, Washington, DC 20250–1151.

Comments may also be sent via email to *nstremple@fs.fed.us*, or via facsimile to 202–690–5792. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Executive Staff to the National Urban and Community Forestry Advisory Council, 201 14th Street SW., Yates Building (1 Central) MS–1151, Washington, DC 20250–1151, desk phone 202–205–7829, or unit phone 202–205–1054. Additional information can be found on the Forest Service Web site at *http://www.fs.fed.us/ucf/.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Those interested in attending should contact Nancy Stremple to be placed on the meeting attendance list. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff (201 14th Street SW., Yates Building (1 Central) MS–1151, Washington, DC 20250–1151, email: *nstremple@fs.fed.us*) before or after the meeting. Public input sessions will be provided at the meeting.

Dated: September 24, 2012.

Robin Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2012–24025 Filed 9–28–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the Rural Energy for America Program (REAP).

DATES: Comments on this notice must be received by November 30, 2012 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Kelley Oehler, Rural Business-Cooperative Service, USDA, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250–3225, Telephone (202) 720–6819.

SUPPLEMENTARY INFORMATION: *Title:* Renewal Energy and Energy Efficiency Improvements Program.

OMB Number: 0570–0050.

Expiration Date of Approval: February 28, 2013.

Type of Request: Revision of a currently approved information collection.

Abstract: REAP provides grants and loan guarantees to eligible agricultural producers and rural small businesses for the purchase of renewable energy systems and the implementation of energy efficiency improvements. REAP also provides grants for renewable energy system feasibility studies, energy audits, and renewable energy development assistance. This notice is specific to the information collection required for the renewable energy system and energy efficiency improvements portion of REAP.

The collection of information is vital for Rural Development to make wise decisions regarding the eligibility of applicants and borrowers, establish selection priorities among competing applicants ensure compliance with applicable Rural Development regulations, and effectively monitor the grantees and borrowers activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. This information will be used to determine applicant eligibility, to determine project eligibility and feasibility, and to ensure that grantees/borrowers operate on a sound basis and use funds for authorized purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: Agricultural Producers and Rural Small Businesses.

Estimated Number of Respondents: 3,634.

Estimated Number of Responses per Respondent: 15.

Estimated Number of Responses: 53,548.

Estimated Total Annual Burden on Respondents: 310,181.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0040.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of USDA, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 30, 2012.

John Padalino,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2012–24020 Filed 9–28–12; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Gulf of Mexico Electronic Logbook.

OMB Control Number: 0648–0543.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 600.

Average Hours per Response: Initial installation of electronic logbook, 30 minutes; removal and reinstallation for data collection, 1 minute.

Burden Hours: 110.

Needs and Uses: This request is for revision and extension of a current information collection.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Gulf of Mexico Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. National Marine Fisheries Service (NMFS) manages the shrimp fishery in the waters of the Gulf of Mexico (Gulf) under the Shrimp Fishery Management Plan (FMP). The electronic logbook (ELB) regulations for the Gulf shrimp fishery may be found at 50 CFR 622.5(a)(iii).

There are currently approximately 1,563 permitted vessels that harvest shrimp from the Exclusive Economic Zone (EEZ), and the Council estimates that there are over 13,000 boats that fish in state waters. With such a large number of vessels of differing sizes, gears used, and fishing capabilities compounded by seasonal variability in abundance and price and the broad geographic distribution of the fleet, ELBs provide a more precise means of estimating the amount of fishing effort than current methods. Using ELBs to improve estimating fishing effort will help improve estimating bycatch in the Gulf shrimp fleet. In 2012, an additional 100 vessels will be selected for ELBs.

Affected Public: Business or other for-profitorganizations.

Frequency: One time and bimonthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: September 25, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–24041 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341

et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below.

Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[09/08/2012 through 09/24/2012]

Firm name	Firm address	Date accepted for investigation	Product(s)
Barbara Parkes d/b/a K9 Carts.	4560 Cedar Hill Road, Langley, WA 98620.	9/20/2012	Manufacturer of carts and nursing care products such as slings for animals to help them with mobility.
Modern Industries, Inc ..	613 West 11th Street, P.O. Box 399, Erie, PA 16501.	9/20/2012	Manufacturer of diesel engine sub-assemblies and turbocharger engine components. They also provide machining, heat treating and research laboratory services to the transportation, aerospace, and defense markets.
North States Steel Corporation.	1225 Route 173, Hebron, IL 60034.	9/21/2012	Manufacturer of galvanized bright spangle, galvanized minimized spangle, galvanized cold rolled and hot rolled steel for the construction, agricultural, manufacturing, sign, transportation, HVAC, and container industries.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: September 24, 2012.

Miriam Kearse,

Eligibility Examiner.

[FR Doc. 2012–24052 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–36–2012]

Foreign-Trade Zone 92—Gulfport, MS; Authorization of Production Activity; Gulf Ship, LLC (Shipbuilding); Gulfport, MS

On May 10, 2012, the Mississippi Coast Foreign-Trade Zone, Inc., grantee of FTZ 92, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Gulf Ship, LLC, within FTZ 92—Site 3, in Gulfport, Mississippi.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (77 FR 28569, 5–15–2012). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: September 21, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–24135 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1857]

Reorganization and Expansion of Foreign-Trade Zone 220 Under Alternative Site Framework; Sioux Falls, SD

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Sioux Falls Development Foundation, grantee of Foreign-Trade Zone 220, submitted an application to the Board (FTZ Docket B–35–2012, filed 05/07/2012) for authority to reorganize and expand under the ASF with a service area of Bon Homme, Brookings, Clay, Davison, Duel, Hamlin, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, South Dakota, within and adjacent to the Sioux Falls U.S. Customs and Border Protection port of entry, FTZ 220's existing Sites 1, 2 and 3 would be categorized as magnet sites, a parcel of Site 5 would be renumbered to create new usage-driven Site 7, existing Sites 4 and 6 and the remainder of Site 5 would be categorized as usage-driven sites, and the grantee proposes one additional initial usage-driven site (Site 8);

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 27714, 05/11/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 220 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1 and 3 if not activated by September 30, 2017, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 4, 5, 6, 7 and 8 if no foreign-status merchandise is admitted for a *bona fide*

customs purpose by September 30, 2015.

Signed at Washington, DC, this 20th day of September 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–24128 Filed 9–28–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1856]

Reorganization of Foreign-Trade Zone 129 Under Alternative Site Framework Bellingham, WA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Port of Bellingham, grantee of Foreign-Trade Zone 129, Foreign-Trade Zone 130 and Foreign-Trade Zone 131, submitted an application to the Board (FTZ Docket B–32–2012, filed 05/01/2012) for authority to reorganize under the ASF with a service area of Whatcom County, Washington, within and adjacent to the Blaine, Washington U.S. Customs and Border Protection port of entry, as well as: merge FTZ 130 and FTZ 131 under FTZ 129 so that existing Site 1 of FTZ 130 would be renumbered as Site 4 of FTZ 129 and existing Sites 1 and 2 of FTZ 131 will be renumbered as Sites 5 and 6 of FTZ 129, respectively; remove portions of existing Site 1 of FTZ 129 and all of existing Site 2 of FTZ 130 from the merged zone project; and, FTZ 129's Sites 1, 3, 4, 5 and 6 would be categorized as ''magnet'' sites, with Sites 3, 4, 5 and 6 subject to a five-year ASF sunset provision for magnet sites;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 27021–27022, 05/08/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 129 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 3, 4, 5 and 6 if not activated by September 30, 2017.

Signed at Washington, DC, this 20th day of September 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2012–24132 Filed 9–28–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1858]

Reorganization of Foreign-Trade Zone 107 Under Alternative Site Framework, Polk County, IA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09; 75 FR 71069–71070, 11/22/10) as an option for the establishment or reorganization of zones;

Whereas, the Iowa Foreign Trade Zone Corporation, grantee of Foreign-Trade Zone 107, submitted an application to the Board (FTZ Docket 10–2012, filed 2/9/2012) for authority to reorganize under the ASF with a service area of Adair, Adams, Audubon, Boone, Calhoun, Carroll, Cass, Clarke, Dallas, Decatur, Greene, Guthrie, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Ringgold, Story, Union, Warren, Wayne and Webster Counties, Iowa, adjacent to the Des Moines Customs and Border Protection port of entry, and FTZ 107's existing Site 1 would be categorized as a magnet site;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 8805–8806, 2/15/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 107 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13 and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this 20th day of September 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–24125 Filed 9–28–12; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Chemical Weapons Convention Declaration and Report Handbook and Forms

AGENCY: Bureau of Industry and Security.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 30, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *Lawrence.Hall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Chemical Weapons Convention Implementation Act of 1998 and Commerce Chemical Weapons Convention Regulations (CWCR) specify the rights, responsibilities and obligations for submission of declarations, reports and inspections. This information is required for the United States to comply with the Chemical Weapons Convention (CWC), an international arms control treaty.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0091.

Form Number(s): Form 1–1; Form 1–2; Form 1–2A; Form 1–2B; etc.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 816.

Estimated Time per Response: 10 minutes—12 hours per response.

Estimated Total Annual Burden Hours: 16,047.

Estimated Total Annual Cost to Public: $41,740.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–24063 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Carbon and Certain Alloy Steel Wire Rod From Mexico: Affirmative Final Determination of Circumvention of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 20, 2011, the Department of Commerce (the Department) published in the **Federal Register** its notice of affirmative preliminary determination of circumvention.[1] We gave interested parties an opportunity to comment on the *Preliminary Determination,* and received briefs and rebuttal briefs from interested parties. After evaluating the comments submitted by parties, we find no basis for altering the Department's preliminary findings. Accordingly, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(i), we continue to determine that shipments of wire rod with an actual diameter of 4.75 mm to 5.00 mm by Deacero S.A. de C.V (Deacero) constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the order on wire rod from Mexico. Further, we continue to determine that Ternium Mexico S.A. de C.V. (Ternium) is not covered by this affirmative anti-circumvention inquiry because information on the record indicates that Ternium has not shipped wire rod with diameters of 4.75 mm to 5.0 mm.

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds, Program Manager, or Jolanta Lawska, Trade Analyst, Office 3, Antidumping and Countervailing Duty Operations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6071 or (202) 482–8362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2011, the Department initiated a circumvention inquiry into whether Deacero and Ternium shipped wire rod with an actual diameter measuring 4.75 mm to 5.00 mm in a manner that constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope.[2] On December 20, 2011, the Department published its notice of affirmative preliminary determination of circumvention.[3] The Department determined that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero is circumventing the antidumping duty order on wire rod from Mexico. The Department also directed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of such merchandise and require case deposits on said entries.[4]

In accordance with 19 CFR 351.225(f)(3), interested parties were invited to submit comments on the *Preliminary Determination.* On January 12, 2012, Deacero submitted a case brief. On January 23, 2012, ArcelorMittal USA LLC, Gerdau Ameristeel U.S. Inc, Rocky Mountain Steel, and Members of the Wire Rod Producers Coalition (collectively, the Coalition) and Nucor Corporation (Nucor) submitted rebuttal briefs. The Department considered these submissions for the final determination of this circumvention inquiry. No party requested a hearing.

Scope of the Order

The merchandise subject to this order is carbon and certain alloy steel wire rod. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059. Although the HTS numbers are provided for convenience and customs purposes, the written product description, available in *Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago, and Ukraine,* 67 FR 65945 (October 29, 2002), remains dispositive.

[1] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 76 FR 78882 (December 20, 2011) (*Preliminary Determination*).

[2] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order,* 76 FR 33218 (June 8, 2011) (*Initiation*). The Department is using slightly different wording in this **Federal Register** notice from the wording in the initiation notice and *Preliminary Determination* to clarify that Deacero's shipments of 4.75 mm wire rod are covered by this circumvention inquiry.

[3] *See Preliminary Determination.*

[4] *See Id.,* 76 FR at 78884.

Scope of the Circumvention Inquiry

The merchandise subject to this circumvention inquiry consists of wire rod with an actual diameter of 4.75 mm to 5.00 mm. This merchandise, produced by Deacero, entered the United States under Harmonized Tariff Schedule (HTS) classification 7213.91.3093.

Affirmative Final Determination of Circumvention

The Department conducted this circumvention inquiry in accordance with section 781(c) of the Act, which deals with minor alterations of merchandise. The Department explained in the *Preliminary Determination* the criteria typically used by the Department to make determinations in such inquiries (*i.e.,* the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing, and the cost of any modification relative to the total value of the imported products). *See Preliminary Determination,* 76 FR at 78884.

In the *Preliminary Determination,* the Department found that wire rod with an actual diameter of 4.75 mm to 5.0 mm and subject wire rod are indistinguishable in any meaningful sense in terms of overall physical characteristics of the merchandise. Our preliminary analysis indicated that other physical characteristics, such as tensile strength, ductility, and chemical content (which determines product grade), do not vary by diameter. In addition, we preliminarily determined that the 0.25 mm difference between the wire rod products at issue and subject wire rod do not alter the expectations of the ultimate users, the use of the merchandise, and the channels of marketing in any meaningful way. We further determined that the costs incurred to produce wire rod with a 0.25 mm smaller diameter are not significant. Accordingly, pursuant to section 781(c) of the Act and 19 CFR 351.225(i) we preliminarily determined that shipments of wire rod with an actual diameter of 4.75 mm to 5.00 mm by Deacero constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the order on wire rod from Mexico.

The Department has analyzed the comments submitted by interested parties in the accompanying issues and decision memorandum. *See* the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Final Results of Minor Alteration Circumvention Inquiry on Carbon and Certain Alloy Steel Wire Rod with an Actual Diameter of 4.75 Millimeters (mm) to 5.00 mm,'' a proprietary document dated concurrently with this notice of which the public version, as well as all other public documents and public versions of documents filed on the record of this proceeding, is available electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, the public version of the memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed memorandum and the electronic versions of the memorandum are identical in content.

In these final results, the Department continues to find that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero is circumventing the antidumping duty order on wire rod from Mexico. Therefore, the Department finds that it is appropriate to consider that shipments of wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the order on wire rod from Mexico.

This affirmative finding applies solely to Deacero because information supplied by Ternium indicates that it did not produce or sell merchandise subject to this circumvention inquiry.

Continuation of Suspension of Liquidation

In accordance with section 351.225(l)(3) of the Department's regulations, we are directing CBP to continue to suspend liquidation of wire rod with an actual diameter of 4.75 mm to 5.00 mm produced and/or exported by Deacero that are entered, or withdrawn from warehouse, for consumption on or after June 8, 2011, the publication date of the *Initiation* in the **Federal Register**. Pursuant to 19 CFR 351.225(l)(2), we are also instructing CBP to continue to require a cash deposit of estimated duties equal to the all others rate of 20.11 percent *ad valorem* for each unliquidated entry of wire rod with an actual diameter of 4.75 mm to 5.00 mm produced and/or exported by Deacero entered, or withdrawn from warehouse, for consumption on or after June 8, 2011.[5]

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This affirmative final circumvention determination is in accordance with section 781(c) of the Act and 19 CFR 351.225.

Dated: September 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix—List of Comments and Issues in the Decision Memorandum

Comment 1: Whether Initiation of a Minor Alteration Inquiry is Contingent Upon Whether the Products at Issue Existed Prior to the Investigation

Comment 2: Whether the Products at Issue Were Commercially Available Prior to the Investigation

Comment 3: Whether the Department Should Perform the Minor Alteration Five-Prong Analysis by Comparing 4.75 mm Wire Rod to All Wire Rod Listed in the Scope

Comment 4: First Prong of the Minor Alteration Analysis—Physical Characteristics

Comment 5: Second Prong of the Minor Alteration Analysis—Expectations of the Ultimate Users

Comment 6: Third Prong of the Minor Alteration—End Use of Products at Issue

Comment 7: Fourth Prong of the Minor Alteration Analysis—Channels of Trade and Advertising

Comment 8: Fifth Prong of the Minor Alteration Analysis—Cost of Any Modification Relative to the Total Value of the Products at Issue

[FR Doc. 2012–24110 Filed 9–28–12; 8:45 am]

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[5] Deacero has never been individually examined by the Department during the history of the *Order.* For this reason Deacero's shipments of subject merchandise are subject to the all others rate.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after October 2012, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of October 2012,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period of review
Antidumping Duty Proceedings	
AUSTRALIA: Electrolytic Manganese Dioxide, A–602–806	10/1/11–9/30/12
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, A–351–832	10/1/11–9/30/12
INDONESIA: Carbon and Certain Alloy Steel Wire Rod, A–560–815	10/1/11–9/30/12
ITALY: Pressure Sensitive Plastic Tape, A–475–059	10/1/11–9/30/12
MEXICO: Carbon and Certain Alloy Steel Wire Rod, A–201–830	10/1/11–9/30/12
MOLDOVA: Carbon and Certain Alloy Steel Wire Rod, A–841–805	10/1/11–9/30/12

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
REPUBLIC OF KOREA: Polyvinyl Alcohol, A–580–850	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Barium Carbonate, A–570–880	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Barium Chloride, A–570–007	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Electrolytic Manganese Dioxide, A–570–919	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Helical Spring Lock Washers, A–570–822	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Polyvinyl Alcohol, A–570–879	10/1/11–9/30/12
THE PEOPLE'S REPUBLIC OF CHINA: Steel Wire Garment Hangers, A–570–918	10/1/11–9/30/12
TRINDAD AND TOBAGO: Carbon and Certain Alloy Steel Rod, A–274–804	10/1/11–9/30/12
UKRAINE: Carbon and Certain Alloy Steel Wire Rod, A–823–812	10/1/11–9/30/12
Countervailing Duty Proceedings	
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, C–351–833	1/1/11–12/31/11
IRAN: Roasted In Shell Pistachios, C–507–601	1/1/11–12/31/11
Suspension Agreements	
RUSSIA: Uranium, A–821–802	10/1/11–9/30/12

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov*.

All requests must be filed electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov*. *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2012. If the Department does not receive, by the last day of October 2012, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 13, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–24123 Filed 9–28–12; 8:45 am]

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[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as

amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2012

The following Sunset Reviews are scheduled for initiation in November 2012 and will appear in that month's Notice of Initiation of Five-Year Sunset Review.

	Department contact
Antidumping Duty Proceedings	
Certain Hot-Rolled Carbon Steel Flat Products from China (A–570–865) (2nd Review)	Jennifer Moats, (202) 482–5047.
Certain Hot-Rolled Carbon Steel Flat Products from India (A–533–820) (2nd Review)	David Goldberger, (202) 482–4136.
Certain Hot-Rolled Carbon Steel Flat Products from Indonesia (A–560–812) (2nd Review)	David Goldberger, (202) 482–4136.
Certain Hot-Rolled Carbon Steel Flat Products from Taiwan (A–583–835) (2nd Review)	Dana Mermelstein, (202) 482–1391.
Certain Hot-Rolled Carbon Steel Flat Products from Thailand (A–549–817) (2nd Review)	Dana Mermelstein, (202) 482–1391.
Certain Hot-Rolled Carbon Steel Flat Products from Ukraine (A–823–811) (2nd Review)	Dana Mermelstein, (202) 482–1391.
Countervailing Duty Proceedings	
Certain Hot-Rolled Carbon Steel Flat Products from India (C–533–821) (2nd Review)	David Goldberger, (202) 482–4136.
Certain Hot-Rolled Carbon Steel Flat Products from Indonesia (C–560–813) (2nd Review)	David Goldberger, (202) 482–4136.
Certain Hot-Rolled Carbon Steel Flat Products from Thailand (C–549–818) (2nd Review)	Dana Mermelstein, (202) 482–1391.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in November 2012.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 12, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–24121 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 2, 2012, the Department of Commerce (''the Department'') initiated the second five-year (''sunset'') review of the antidumping duty order on honey from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[1] On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested parties, as well as a lack of response from respondent interested parties, the Department conducted an expedited sunset review of the antidumping duty order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the antidumping duty order on honey from the PRC would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date*: October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7906.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2012, the Department initiated the second sunset review of the antidumping duty order on honey from the PRC, pursuant to section 751(c) of the Act and 19 CFR 351.218(c)(2).[2] The Department received a notice of intent to participate from American Honey Producers Association (''AHPA'') and the Sioux Honey Association (''SHA'') (collectively, ''the domestic interested parties'') within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status under section 771(9)(C) and (E) of the Act, as manufacturers of a domestic like product in the United States.

[1] *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 39218 (July 2, 2012) (''*Initiation*'').

[2] *See Initiation.*

[3] *See* Letter from domestic interested parties, re: Honey from the People's Republic of China, dated July 17, 2012.

We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We received no responses from respondent interested parties. As a result, the Department conducted an expedited sunset review of the order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Order

The products covered by the order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under the order is dispositive.

Also included in the scope are blends of honey and rice syrup, regardless of the percentage of honey contained in the blend.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Honey from the People's Republic of China'' (''Decision Memorandum'') from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with and hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order was to be revoked. Parties may find a complete discussion of all issues raised in the review and the corresponding recommendations in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be access directly on the Web at *http://ia.ita.doc.gov/frn*. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Exporter	Weight-averaged dumping margins (%)
Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import and Export Corporation	57.13
Kunshan Foreign Trade Co., Ltd	49.60
Zhejiang Native Produce and Animal By-Products Import and Export Corporation	25.88
High Hope International Group	45.46
Shanghai Eswell Enterprise Co., Ltd	45.46
Anhui Native Produce Import and Export Corp	45.46
Henan Native Produce Import and Export Corp	45.46
PRC-Wide Rate	183.80

Notice Regarding Administrative Protective Order (''APO'')

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This sunset review and notice are in accordance with sections 751(c), 752(c), and 771(i)(1) of the Act.

Dated: September 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–24108 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

[4] *See* Letter from domestic interested parties, re: ''Second Five-Year (''Sunset'') Review of the Antidumping Order on Honey from the People's Republic of China: Petitioners' Substantive Response,'' dated August 1, 2012.

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998), and in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–868	731–TA–932	China	Folding Metal Tables and Chairs (2nd Review).	Jennifer Moats, (202) 482–5047.
A–533–823	731–TA–929	India	Silicomanganese (2nd Review)	Dana Mermelstein, (202) 482–1391.
A–588–857	731–TA–919	Japan	Welded Large Diameter Line Pipe (2nd Review).	Dana Mermelstein, (202) 482–1391.
A–834–807	731–TA–930	Kazakhstan	Silicomanganese (2nd Review)	Dana Mermelstein, (202) 482–1391.
A–307–820	731–TA–931	Venezuela	Silicomanganese (2nd Review)	Dana Mermelstein, (202) 482–1391.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statue and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: ''*http://ia.ita.doc.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303. *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*'') amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

751(c) of the Act and 19 CFR 351.218 (c).

Dated: September 12, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–24099 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Multi-Sector Trade Mission to South India and Sri Lanka

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Amendment to Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service is amending the Notice published at 77 FR 48499, August 14, 2012, regarding the U.S. Multi-Sector Trade Mission to South India and Sri Lanka Chennai and Cochin, India and Colombo, Sri Lanka February 3–8, 2013, to add to the targeted sector architecture services related to development of the residential and mixed use, tourism, and healthcare sectors, and encourage applications from U.S. exporters in those sub-sectors. Except as specified herein, all other information in the August 14, 2012 Notice, including the November 30, 2012 application deadline, remains unchanged.

SUPPLEMENTARY INFORMATION:

Background

The rapid growth of the Indian economy (averaging 8% over the past 10 years, though down as low as 6.4% recently) has created a pressing need for housing, hotel and healthcare infrastructure development and the country requires significant outside expertise to meet its ambitious targets. Additionally, Sri Lanka, after years of internal strife and conflicts, is poised to attract 2.5 million tourist arrivals by 2016 and the industry estimates it will need an additional 40,000 rooms in the next five years to achieve this target. The U.S. Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service anticipates that this current growth and increasing demand in the infrastructure, hospitality and healthcare sectors will provide opportunities for U.S architecture service companies to expand and grow in these areas, and is therefore amending the mission statement for the U.S. Multi-Sector Trade Mission to Chennai and Cochin, India and Colombo, Sri Lanka February 3–8, 2013, to add the architecture services as described below to the list of targeted sectors for this mission, which also includes infrastructure, hospitality, healthcare, and environmental and information technologies.

Amendments

For the reasons stated above, the Mission Description section of the amended Notice published at 77 FR 48499, August 14, 2012, regarding the U.S. Multi-Sector Trade Mission to South India and Sri Lanka Chennai and Cochin, India and Colombo, Sri Lanka February 3–8, 2013, are amended as follows:

1. Under Mission Description, after ''expanding markets'', add the following text:

Architecture Services Sub-Sectors

- Tourism
- Hospital and Healthcare
- Residential and Mixed-Use

2. Under Commercial Setting Chennai India, replace ''Chennai possesses a broad need for all building types, but corporate campuses, education, housing, infrastructure, and master-planning efforts are the most active development sectors.'', with the following text:

Chennai possesses a broad need for all building types, especially for residential development, tourism and health facilities. The Chennai real estate market has been growing at over 8 per cent a year and there are at least 675 real estate projects underway and 43.5 million square feet of area is awaiting approval for development with the local government. The residential real estate market is expected to register strong growth in 2012, primarily on account of improvement in the information technology (IT) sector, and continued economic growth in the region. Additionally, the SCMS Group, a Kochi-based academic house, plans to develop an academic complex in the Smart City campus with an investment of over $10 million.

3. Under Commercial Setting Colombo Sri Lanka, after ''With the return of peace, sectors such as construction, telecommunications, tourism and transportation offer enormous opportunities for U.S. companies.'', add the following text:

The Urban Development Authority, a state agency, has plans to develop many areas of Colombo for tourism, housing, leisure and entertainment. A prime location in Colombo close to several five star hotels and adjoining a lake is earmarked for hotels, restaurants, malls, casinos and other leisure activities. A leading local company has developed plans to convert the Colombo Fort area to an entertainment and leisure district and has plans to attract leading international brands and franchises to this major entertainment and shopping hub. A marina with water sports activities is also planned. The UDA is also implementing projects in the south and north central areas of the country as well. The UDA is under the authority of the Ministry of Defense.

FOR FURTHER INFORMATION CONTACT:

San Jose (Silicon Valley) Export Assistance Center, Aileen Crowe Nandi, Commercial Officer, 55 S. Market Street, Suite 1040, San Jose, CA 95113, Tel: (408) 535–2757, ex. 102, Email: *aileen.nandi@trade.gov*

U.S. Commercial Service India, James P. Golsen, Principal Commercial Officer for South India, U.S. Commercial Service, Chennai, India, Tel: +91–44–2857–4209, Email: *james.golsen@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2012–24153 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Coastal Zone Management Act Walter B. Jones and NOAA Excellence Awards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 30, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patmarie Nedelka, (301) 713–3155 ext. 127 or *Patmarie.Nedelka@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The 1990 reauthorization of the Coastal Zone Management Act (CZMA) authorized an awards program to ''implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.'' As authorized in Section 314 of the CZMA, the Walter B. Jones Memorial Awards recognize three categories of excellence: Coastal Steward of the Year, Excellence in Local Government, and Excellence in Coastal and Marine Graduate Study. The CZMA authorizes NOAA to conduct public ceremonies to acknowledge such awards, which allows NOAA to fund invitational travel and purchase awards for the Jones Awards.

In conjunction with the Walter B. Jones Memorial Awards, NOAA instituted several additional categories of awards, to recognize additional contributions to ocean and coastal resource management, including Volunteer of the Year, Nongovernmental Organization of the Year, Excellence in Promoting Cultural and Ethnic Diversity (in honor of Secretary Ronald Brown), Excellence in Business Leadership, and the Susan Snow Cotter Award for Excellence in Ocean and Coastal Resource (NOAA re-named this award in honor of Susan Snow Cotter in 2007).

As part of conducting the awards program, NOAA will distribute a ''Call for Nominations'' to representatives from Federal, state, local and nongovernmental organizations and Members of Congress that work in, are knowledgeable of or benefit from, ocean and coastal resource management.

II. Method of Collection

Respondents may submit their nominations by direct mail, email, and fax; however, email is the preferred method.

III. Data

OMB Control Number: 0648–0598.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Federal government; state, local, or tribal governments; not-for-profit institutions.

Estimated Number of Respondents: 25.

Estimated Time per Response: Prepare nomination package, 30 minutes.

Estimated Total Annual Burden Hours: 13.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information renewal is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–24051 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC258

North Pacific Fishery Management Council (NPFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Steller Sea Lion Mitigation Committee (SSLMC) will meet in Juneau, AK.

DATES: The meeting will be held October 18–19, 2012, from 8:30 a.m. through 5 p.m. AST.

ADDRESSES: The meeting will be held in the 4th floor conference room at the Federal Building at 700 West 9th Street, Juneau, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Steve MacLean, NPFMC; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: At this meeting, the SSLMC will be reviewing proposals for alternatives to be considered in the 2012 Steller Sea Lion Protection Measures EIS currently being prepared by NMFS. The SSLMC will begin drafting one or more alternatives for delivery to the Council in December, 2012. Please note that State or Federal ID will be required to enter the Federal Building in Juneau. Foreign nationals wishing to attend this meeting in person should contact the Council as soon as possible to expedite security clearance at the Federal Building in Juneau. Additional information is posted on the Council Web site: *http://www.alaskafisheries.noaa.gov/npfmc/.*

The meeting will be webcast to allow the public to watch and hear presentations. Comments will not be accepted via webcast or teleconference.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: September 25, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23955 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC259

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Charter Management Implementation Committee will convene via a conference call.

DATES: The meeting will be held on October 19, 2012 at 10 a.m. (AST). The call in number is: (907) 271–2896.

ADDRESSES: The conference call will be held at the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 205, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The agenda is to identify a range of potential management measures, using the status quo management measures of one fish less than 45 inches or greater than 68 inches as the baseline for Area 2C. Committee recommendations will be incorporated into an analysis for Council review in December 2012. The Council will recommend a preferred measure for consideration by the International Pacific Halibut Commission at its January 2013 meeting, for implementation in 2013.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: September 25, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23956 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC265

Marine Fisheries Advisory Committee Meeting

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held October 23–25, 2012, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Silver Spring Civic Building, One Veterans Plaza, Silver Spring, MD 20910; 240–777–5350.

FOR FURTHER INFORMATION CONTACT: Mark Holliday, MAFAC Executive Director; (301) 427–8004; email: *Mark.Holliday@noaa.gov*.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete charter and summaries of prior meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/*.

Matters To Be Considered

This agenda is subject to change.

The meeting is convened to hear presentations and discuss policies and guidance on the following topics: NMFS budget and legislative issues, fisheries certification and sustainability, Endangered Species Act and current protected resources issues, and revisions to MAFAC's *Vision 2020* report. The meeting will include discussion of various MAFAC administrative and organizational matters and meetings of the standing subcommittees.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Holliday, MAFAC Executive Director; 301–427–8004 by October 12, 2012.

Dated: September 26, 2012.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24159 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC262

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Law Enforcement Advisory Panel in conjunction with the Gulf States Marine Fisheries Commission's Law Enforcement Committee.

DATES: The meeting will be held from 8:30 a.m. until 12 noon on Wednesday, October 17, 2012.

ADDRESSES: The meeting will be held at the Grand Hotel Marriott Resort, One Grand Boulevard, Point Clear, AL 36564; telephone: (251) 928–9201.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Law Enforcement Advisory Panel (LEAP) along with the Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC). The

LEAP/LEC will review the Council's Action Schedule and the status of regulatory actions that have been submitted to NMFS for implementation. The LEAP/LEC will also consider changes to recommendations for the timing of Federal Fishery Closures, and potential impacts of Exempted Fishing Permits being issued during closed seasons, such as for fishing tournaments. Finally, the LEAP/LEC will also consider approval of recently completed Strategic and Operations Plans, and review the state's Joint Enforcement Agreements.

The Law Enforcement Advisory Panel consists of principal law enforcement officers in each of the Gulf States, as well as the National Oceanic and Atmospheric Administration (NOAA) Law Enforcement, U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, and the NOAA General Counsel for Law Enforcement. A copy of the agenda and related materials can be obtained by calling the Council office at (813) 348–1630.

Although other non-emergency issues not on the agendas may come before the Law Enforcement Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the Law Enforcement Advisory Panel will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council office (see **ADDRESSES**) 5 working days prior to the meeting.

Dated: September 25, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23958 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC261

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its 111th Scientific and Statistical Committee (SSC), Executive and Budget Standing Committee, and 155th Council to take actions on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held from Wednesday, October 24th through Thursday, November 1, 2012. For specific dates, times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 111th SSC and Executive and Budget Standing Committee meetings will be held at the Council office, 1164 Bishop Street, Honolulu, HI 96813; telephone: (808) 522–8220. The 155th Council meeting will be held at the Laniakea YWCA-Fuller Hall, 1040 Richards Street, Honolulu, HI 96813; telephone: (808) 538–7061. The Fishers Forum will be held at the Harbor View Center, 1129 North Nimitz Hwy (Pier 38), Honolulu, HI 96817; telephone: (808) 983–1200.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The SSC will meet on October 24–26, 2012, between 8:30 a.m. and 5 p.m.; the Council's Executive and Budget Standing Committee will meet on October 29, 2012, between 10 a.m. and 12 noon; the 155th Council will meet on October 29–November 1, 2012. The 155th Council meeting will be held between 2 p.m. and 5 p.m. on October 29, 2012, between 8:30 a.m. and 5 p.m. on October 30, 2012, between 8:30 a.m. and 5:30 p.m. on October 31, 2012, and between 8:30 a.m. and 12 noon on November 1, 2012. A Fishers Forum will be held in association with the 155th Council Meeting between 6 p.m. and 9 p.m. on October 30, 2012. All meetings will be held in Honolulu, HI..

In addition to the agenda items listed here, the SSC and Council will hear recommendations from Council advisory groups. Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for 111th SSC Meeting

8:30 a.m.–5 p.m., Wednesday, October 24, 2012

1. Introductions.
2. Approval of Draft Agenda and Assignment of Rapporteurs.
3. Status of the 110th SSC Meeting Recommendations.
4. Report from the Pacific Islands Fisheries Science Center Director.
5. Program Planning.
A. NMFS Science Plan & Prioritization Exercise.
B. Public Comment.
C. SSC Discussion and Recommendations.
6. Insular Fisheries.
A. Action Items.
1. Options for Acceptable Biological Catch.
a. American Samoa, Guam, Commonwealth of the Northern Mariana Islands (CNMI).
i. Bottomfish Management Unit Species (P-star Analysis).
ii. Crustaceans.
iii. Precious Corals.
b. Hawaii.
i. Non Deep 7 Bottomfish.
ii. Crustaceans.
iii. Precious Corals.
2. Alternatives for the Moratorium on Gold Coral Fishery.
B. Bottomfish Fishery.
1. Cooperative Research Bottomfish Tagging Projects in Hawaii.
2. Preliminary Results of Acoustic Tagging of Bottomfish.
C. Public Comment.
D. SSC Discussion and Recommendations.

8:30 a.m.–5 p.m., Thursday, October 25, 2012

7. Pelagic Fisheries.
A. Status of Opah Caught by the Hawaii-based Pelagic Longline Fishery.
B. International Seafood Sustainability Foundation (ISSF) Research.
C. Tracking the Changes of Economic Performance Indicators for the Main Commercial Fisheries in the Western Pacific Areas.
D. Levels Of Observer Coverage In The Shallow Set Swordfish Fishery.
E. American Samoa and Hawaii Longline Quarterly Reports.
F. International Fisheries Meetings.
1. Eighth Meeting of Western and Central Pacific Fisheries Commission (WCPFC) Scientific Committee (SC 8).

G. Public Comment.
H. SSC Discussion and Recommendations.
8. Protected Species.
A. Update on Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) Actions.
1. 90-day Finding on the Petition to Delist the Hawaiian Green Turtle.
B. Draft 2012 Marine Mammal Stock Assessment Reports and New Abundance Estimates for False Killer Whales.
C. Public Comment.
D. SSC Discussion and Recommendations.

8:30 a.m.–5 p.m., Friday, October 26, 2012

9. Other Business.
A. 112th SSC Meeting.
10. Summary of SSC Recommendations to the Council.

10 a.m.–12 Noon, Monday, October 29, 2012

Executive and Budget Standing Committee Meeting.

Schedule and Agenda for 155th Council Meeting

2 p.m.–5 p.m. Monday, October 29, 2012

1. Welcome and Introductions.
2. Approval of the 155th Agenda.
3. Approval of the 154th Meeting Minutes.
4. Executive Director's Report.
5. Agency Reports.
A. National Marine Fisheries Service.
1. Pacific Islands Regional Office.
2. Pacific Islands Fisheries Science Center (PIFSC).
B. NOAA Office of General Counsel (OCG), Pacific Islands Report.
C. NOAA National Ocean Service.
D. U.S. Fish and Wildlife Service.
E. Enforcement.
1. U.S. Coast Guard2. NMFS Office for Law Enforcement.
3. NOAA General Counsel for Enforcement and Litigation.
F. Public Comment.
G. Council Discussion and Action.

8:30 a.m.–5 p.m., Tuesday, October 30, 2012

6. Program Planning and Research.
A. Recommendations on Moratorium for Gold Coral (Action Item).
B. PIFSC Science Plan and Prioritization.
C. Pacific Island Recreational (Non-Commercial) Fishing Summit.
D. Education and Outreach.
1. Report on First Stewarts Meeting.
a. Video Flyover.
2. Third Managing Our Nations Fisheries Conference (MONF3).
3. Other Activities.
E. SSC Recommendations.
F. Public Hearing.
G. Council Discussion and Action.
7. Protected Species.
A. Update on ESA and MMPA Actions.
1. General Update on ESA and MMPA Actions.
2. Honu (Hawaiian Green Sea Turtle) Petition 90-Day Finding.
B. Main Hawaiian Islands Monk Seal Management Plan.
C. Draft 2012 Marine Mammal Stock Assessment Reports and New Abundance Estimates for False Killer Whales.
D. SSC Recommendations.
E. Public Comment.
F. Council Discussion and Action.
8. American Samoa Archipelago.
A. Motu Lipoti.
B. Fono Report.
C. Enforcement Issues.
D. Community Activities and Issues.
1. Update on Community Fisheries Development.
E. Annual Catch Limits (Action Item).
1. Bottomfish Management Unit Species (P-star Analysis).
2. Crustaceans (Spiny Lobster and Slipper Lobster).
3. Precious Corals.
F. Education and Outreach Initiatives.
G. SSC Recommendations.
H. Public Hearing.
I. Council Discussion and Action.
9. Marianas Archipelago.
A. Island Reports.
1. Arongo Flaeey.
2. Isla Informe.
B. Legislative Report.
1. CNMI.
2. Guam.
C. Enforcement Issues.
1. CNMI.
2. Guam.
D. Status of Guam Indigenous Fishing Rights PL 29–127.
E. Annual Catch Limits (Action Item).
1. Bottomfish Management Unit Species (P-star Analysis).
2. Crustaceans (Spiny Lobster and Slipper Lobster).
3. Precious Corals.
F. Community Activities and Issues.
G. Education and Outreach Initiatives.
H. SSC Recommendations.
I. Public Hearing.
J. Council Discussion and Action.

6 p.m.–9 p.m., Tuesday October 30, 2012

Fishers Forum: Tuna, Tuna, Tuna

8:30 a.m.–5:30 p.m., Wednesday, October 31, 2012

10. Pelagic & International Fisheries.
A. American Samoa and Hawaii Longline Quarterly Reports.
B. International Fisheries Meetings.
1. Western Central Pacific Fishery Commission (WCPFC) Science Committee.
2. WCPFC Northern Committee.
3. WCPFC Technical and Compliance Committee (TCC).
4. North Pacific Regional Fishery Management Organization (NP RFMO).
5. WCPFC Permanent Advisory Committee.
C. SSC Discussion and Recommendations.
D. Public Comment.
E. Council Discussion and Action.
11. Hawaii Archipelago and Pacific Remote Island Areas.
A. Moku Pepa.
B. Department of Land and Natural Resources (DLNR) Admin Report/Update.
C. Enforcement.
D. Annual Catch Limits (ACLs) (Action Item).
1. Non Deep 7 Bottomfish.
2. Crustaceans (Spiny Lobster, Slipper Lobster and Kona Crab).
3. Precious Corals.
E. Bottomfish Fishery.
1. Cooperative Research Bottomfish Tagging Projects in Hawaii.
2. Preliminary Results on Acoustic Tagging of Bottomfish.
F. Update on Hawaiian Island Humpback Whale Sanctuary Review.
G. Community Projects, Activities and Issues.
1. Status of Aha Moku Legislation.
2. Report on Aha Moku Projects.
H. Education and Outreach Activities.
1. Hawaii Summer High School Course.
2. Community Meetings on ACLs and MMPA.
3. Other Hawaii Outreach Activities.
I. SSC Recommendations.
J. Public Hearing.
K. Council Discussion and Action.
12. Public Comment on Non-Agenda Items.

8:30 a.m.–12 Noon Thursday, November 1, 2012

13. Administrative Matters.
A. Council Member Ethics and Rules of Conduct Training.
B. Financial Reports.
C. Administrative Reports.
D. Freedom of Information Act (FOIAs) Requests.
E. Council Family Changes.
1. SSC.
F. Meetings and Workshops.
G. Approval of Standard Operating Practices and Procedures (SOPP).
H. Department of Commerce/Office of Inspector General Review of the Fishery Management Rule Making Process.
I. Other Business.

J. Standing Committee Recommendations.

K. Public Comment.

L. Council Discussion and Action.

14. Election of Officers.

15. Other Business.

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 155th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 1801 *et seq.*

Dated: September 25, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23957 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC018

Takes of Marine Mammals Incidental to Specified Activities; Pile Driving for Honolulu Seawater Air Conditioning Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) implementing regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Honolulu Seawater Air Conditioning, LLC (HSWAC), allowing the take of small numbers of marine mammals, by Level B harassment, incidental to pile driving during construction of a sea water air conditioning project.

DATES: Effective October 1, 2012, through September 30, 2013.

ADDRESSES: A copy of the IHA, application, and Environmental Assessment are available by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) further established a 45-day time limit for NMFS' review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On April 16, 2012, NMFS received an application from HSWAC requesting an IHA for the take, by Level B harassment, of small numbers of 19 marine mammal species incidental to pile driving activities offshore Honolulu, Hawaii. In accordance with the MMPA and implementing regulations, NMFS issued a notice in the **Federal Register** on July 24, 2012 (77 FR 43259), requesting comments from the public on a proposed IHA.

Description of the Specified Activity

A complete description of the specified activity may be found in NMFS' proposed IHA notice in the **Federal Register** (77 FR 43259, July 24, 2012) and a summary is provided here. HSWAC will construct a district cooling system for commercial and residential properties in Honolulu, consisting of an offshore seawater intake pipe, an offshore seawater discharge pipe, a land-based pump station, and a land-based chilled water distribution system. HSWAC will drive steel sheet piles and cylindrical steel piles as part of construction. Only pile driving activities are expected to result in incidental harassment of marine mammals. A summary of the pile driving activities are provided in Table 1 below. Further details regarding installation of the pipelines are provided in HSWAC's IHA application here: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

TABLE 1—SUMMARY OF PILE DRIVING ACTIVITIES TO OCCUR DURING CONSTRUCTION OF THE SEAWATER AIR CONDITIONING SYSTEM

Activity	51-cm test pipe piles	61-cm sheet piles	51-cm production pipe piles
Location	488–1,128 m offshore	488 m offshore	488–1,128 m offshore.
Number of piles	10–12	80	113.
Pile driving duration	1–2 weeks	16 days	4–6 weeks.
Dates of activity	October 2012	November 2012 or April 2013	March/April 2013.
Hammer type	Impact	Vibratory	Impact.

Date and Duration of Proposed Activity

HSWAC plans to begin pile driving in October 2012. The test piles will be driven in 1–2 weeks in October 2012. Sheet pile installation will last for about 16 days either in November 2012 or April 2013 in order to avoid the peak humpback whale season. The production piles will be installed out to about 46 m depth once the intake and discharge pipes are deployed. If construction proceeds quickly enough, the production piles will be installed around March/April 2013. If production piles cannot be installed during the 1-year IHA period, HSWAC will apply for another IHA and install the production piles sometime after September 2013.

Region of Proposed Activity

Pile driving will take place between Diamond Head and the Reef Runway of the Honolulu International Airport, just offshore from the entrances of Honolulu Harbor and Kewalo Basin. Honolulu Harbor has historically been, and continues to be, an industrial area. Honolulu Harbor is the largest and most important of Oahu's three commercial harbors as the state's port-of-entry for nearly all imported goods. Kewalo Basin, Oahu's smallest commercial harbor, was constructed in the 1920s to ease the congestion in Honolulu Harbor and provide docking for lumber schooners. Over the years, the surrounding waters have been repeatedly polluted by wastewater treatment plant outfalls, sewage pumps, and stream discharges. The basin is now also used by tour boats, commercial fishing vessels, and charter fishing boats. Recreational activities in the area include fishing, swimming, surfing, snorkeling, diving, and paddling. However, fishery resources in the proposed project area are considered depleted as a result of habitat degradation and overfishing. An underwater survey was performed around the area proposed for pipeline installation. The seafloor slopes with varying degrees and consists mostly of medium to coarse sands and coral rubble.

Sound Propagation

For background, sound is a mechanical disturbance consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. For example, 10 dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 μPa'' and ''re: 1 μPa,'' respectively. Root mean square (RMS) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). RMS accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

Source levels for the vibratory and impact hammer are estimated to be 160 dB and 190 dB at 10 m (not 175 dB and 205 dB at 1 m that was incorrectly stated in the proposed IHA notice). These source levels are based on near-source, unattenuated sound pressures from the California Department of Transportation's Compendium of Pile Driving Sound. Assuming a practical spreading loss of 15 log R, HSWAC estimated distances from the sound source to sound thresholds at which point NMFS considers marine mammals to be harassed (CALTRANS, 2007). The distances to each threshold for each pile driving activity are summarized in Table 2 below.

TABLE 2—DISTANCES TO NMFS' HARASSMENT THRESHOLDS FOR EACH PILE DRIVING ACTIVITY

Harassment threshold	51-cm test pipe piles	61-cm sheet piles	51-cm production pipe piles
Level A—180 dB	47 m	n/a	47 m.
Level B—160 dB (impulsive sound)	1,000 m	n/a	1,000 m.
Level B—120 dB (continuous sound)	n/a	4,700 m	n/a.

Comments and Responses

A proposed IHA and request for public comment was published on July 24, 2012 (77 FR 43259). During the 30-day public comment period, the Marine Mammal Commission (Commission) provided the only comments.

Comment 1: The Commission recommends that NMFS require HSWAC to conduct in-situ sound measurements during impact and vibratory pile driving at representative depths to 1,128 meters offshore.

Response: As stated in the proposed IHA notice (77 FR 43259, July 24, 2012), and in the Monitoring and Reporting section of this notice, HSWAC will

perform in-situ underwater sound monitoring during the initial sheet pile and test pile driving operations to verify source levels and ensure that the harassment isopleths are not extending past the estimated threshold distances. HSWAC will perform monitoring measurements at a distance of 10 meters from the pile and then at varying distances from the pile in order to evaluate the proposed harassment isopleths.

Comment 2: The Commission recommends that NMFS reestimate the total number of takes for spinner and pantropical spotted dolphins based on the total number of pile driving days.

Response: NMFS reestimated the total number of takes for pantropical spotted dolphins based on the total number of pile driving days because density information is available for this species. The new take estimate is shown in Table 3 of this notice and does not change NMFS' small numbers determination. However, NMFS disagrees that the take estimates for spinner dolphins should be reestimated. NMFS believes that the authorized take numbers are conservative enough to account for all pile driving days based on the relatively small harassment zone for impact pile driving (1,000 meters), the limited amount of pile driving per day (1 hour total over four 15-minute periods), the use of average pod size to estimate take (based on visual observations around the entire island of Oahu), and the implementation of soft-starts for all impact pile driving.

Comment 3: The Commission recommends that NMFS require HSWAC to monitor before, during, and after all soft-starts of vibratory and impact pile driving to gather the data needed to determine the effectiveness of this technique as a mitigation measure.

Response: NMFS disagrees that HSWAC needs to monitor for marine mammals before, during, and after all soft-starts. Protected species observers will be on-site and monitoring for marine mammals during all impact driving (including during soft-starts) and at least five full days of vibratory pile driving. NMFS believes that this amount of monitoring will allow for adequate interpretation of how marine mammals are behaving in response to pile driving, including during soft-starts.

Comment 4: The Commission recommends that NMFS require HSWAC to monitor the Level A and Level B harassment zones to detect the presence and characterize the behavior of marine mammals during all pile driving activities.

Response: As stated in the proposed IHA notice (77 FR 43259, July 24, 2012), and in the Monitoring and Reporting section of this notice, HSWAC will monitor the Level A harassment zone (plus an additional 47 m) and Level B harassment zone during all impact pile driving. In addition, HSWAC will designate two additional observers to monitor the Level B harassment zone during at least 5 days of vibratory pile driving. NMFS believes that this amount of monitoring is sufficient to validate take estimates and evaluate the behavioral impacts that pile driving has on marine mammals.

Comment 5: The Commission recommends that NMFS require HSWAC to monitor for marine mammals not only before and during pile driving activities, but for 30 minutes after vibratory and impact pile driving activities have ceased.

Response: HSWAC agreed to implement additional monitoring for 30 minutes after pile driving has ceased, or until nightfall, whichever comes first. NMFS included this monitoring measure in the text of the IHA and in the Monitoring and Reporting section of this notice.

Description of Marine Mammals in the Area of the Specified Activity

There are 24 marine mammal species with possible or known occurrence around the Main Hawaiian Islands. However, not all of these species occur within HSWAC's proposed project area or during the same time as proposed pile driving activities. Information on the following 19 species was provided in the July 24, 2012 **Federal Register** notice (77 FR 43259): Blainville's beaked whale; Bryde's whale; Cuvier's beaked whale; dwarf sperm whale; false killer whale; humpback whale; Longman's beaked whale; melon-headed whale; minke whale; short-finned pilot whale; pygmy killer whale; pygmy sperm whale; bottlenose dolphin; Fraser's dolphin; Risso's dolphin; rough-toothed dolphin; spinner dolphin; pantropical spotted dolphin; and Hawaiian monk seal.

Potential Effects of the Specified Activity on Marine Mammals

This action consists of both in-water and above-water components, but the only activity with the potential to take marine mammals is pile driving. A detailed description of potential impacts to marine mammals can be found in NMFS' July 24, 2012 **Federal Register** notice (77 FR 43259) and is summarized here.

Marine mammals are continually exposed to many sources of sound. For example, lightning, rain, sub-sea earthquakes, and animals are natural sound sources throughout the marine environment. Marine mammals produce sounds in various contexts and use sound for various biological functions including: (1) Social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance or received levels depend on the sound source, ambient noise, and the sensitivity of the receptor (Richardson *et al.,* 1995). Marine mammal reactions to sound may depend on sound frequency, ambient sound, what the animal is doing, and the animal's distance from the sound source (Southall *et al.,* 2007).

Hearing Impairment

Marine mammals may experience temporary or permanent hearing impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). There are no empirical data for when PTS first occurs in marine mammals; therefore, it must be estimated from when TTS first occurs and from the rate of TTS growth with increasing exposure levels. PTS is likely if the animal's hearing threshold is reduced by ≥40 dB of TTS. PTS is considered auditory injury (Southall *et al.,* 2007) and occurs in a specific frequency range and amount. Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007). Due to proposed mitigation measures and source levels in the proposed project area, NMFS does not expect marine mammals to be exposed to PTS levels.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be louder in order to be heard. TTS can last from minutes or hours to days, occurs in specific frequency ranges (i.e., an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can occur to varying degrees (e.g., an animal's hearing sensitivity might be reduced by 6 dB or by 30 dB). For sound exposures at or somewhat above the

TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the sound ends.

Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals. Southall *et al.* (2007) considers a 6 dB TTS (i.e., baseline thresholds are elevated by 6 dB) sufficient to be recognized as an unequivocal deviation and thus a sufficient definition of TTS-onset. Because it is non-injurious, NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider onset TTS to be the lowest level at which Level B harassment may occur.

Marine mammal hearing plays a critical role in communication with conspecifics and in interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (i.e., recovery time), and frequency range of TTS and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts if it were in the same frequency band as the necessary vocalizations and of a severity that it impeded communication. The fact that animals exposed to levels and durations of sound that would be expected to result in this physiological response would also be expected to have behavioral responses of a comparatively more severe or sustained nature is also notable and potentially of more importance than the simple existence of a TTS. For HSWAC's proposed project, NMFS expects cases of TTS to be improbable given: (1) The limited amount of pile driving over a 1-year period; (2) the motility of free-ranging marine mammals in the water column; and (3) the propensity for marine mammals to avoid obtrusive sounds.

Behavioral Effects

Behavioral disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Marine mammal reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular proximity to activities and/or exposed to a particular level of sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

Continuous Sound

Southall *et al.* (2007) summarizes numerous behavioral observations made of low-frequency cetaceans to a range of nonpulse sound sources, such as vibratory pile driving. Generally, the data suggest no or limited responses to received levels of 90–120 dB (rms) and an increasing probability of behavioral effects in the 120–160 dB (rms) range. However, differences in source proximity, novelty of the sound, operational features, etc. seem to be at least as important as exposure level when predicting behavioral response. Southall *et al.* (2007) also summarizes numerous mid-frequency cetaceans have also been observed responding to nonpulse sounds such as pingers, vessel noise, sonar, and playbacks of drilling sounds. Again, contextual variables seem to play a large role in behavioral response. In some studies, animals responded with high severity scores while others did not respond even at higher exposure levels. There are also notable differences in results from field versus laboratory conditions. While multiple controlled studies of high-frequency cetaceans to nonpulse sound have been conducted, only one species (harbor porpoise) has been extensively studied. The data suggest that harbor porpoises may be sensitive to lower received levels than some other taxa. Wild harbor porpoises avoided all recorded exposures above 140 dB (rms), but it is unknown whether this type of behavioral response translates to other high-frequency cetaceans (Southall *et al.,* 2007).

There are limited data available on the behavioral effects of continuous sound (e.g., vibratory pile driving) on pinnipeds while underwater; however, field and captive studies to date collectively suggest that pinnipeds do not react strongly to exposures between 90 and 140 dB re: 1 microPa; no data exist from exposures at higher levels. Jacobs and Terhune (2002) observed wild harbor seal reactions to high-frequency acoustic harassment devices around nine sites. Seals came within 44 m of the active acoustic harassment devices and failed to demonstrate any behavioral response when received SPLs were estimated at 120–130 dB. In a captive study (Kastelein, 2006), scientists subjected a group of seals to non-pulse sounds between 8 and 16 kHz. Exposures between 80 and 107 dB did not induce strong behavioral responses; however, a single observation from 100 to 110 dB indicated an avoidance response. The seals returned to baseline conditions shortly following exposure. Southall *et al.* (2007) notes contextual differences between these two studies; the captive animals were not reinforced with food for remaining in the noise fields, whereas free-ranging animals may have been more tolerant of exposures because of motivation to return to a safe location or approach enclosures holding prey items.

Impulse Sounds

Southall *et al.* (2007) addresses behavioral responses of marine mammals to impulse sounds (like impact pile driving). The studies that address the responses of mid-frequency cetaceans to impulse sounds include data gathered both in the field and the laboratory and related to several different sound sources, including: small explosives, airgun arrays, pulse sequences, and natural and artificial pulses. The data show no clear indication of increasing probability and severity of response with increasing received level. Behavioral responses seem to vary depending on species and stimuli. Data on behavioral responses of high-frequency cetaceans to multiple pulses are not available.

The studies that address the responses of pinnipeds in water to impulse sounds include data gathered in the field and related to several different sources, including: Small explosives, impact pile driving, and airgun arrays. Quantitative data on reactions of pinnipeds to impulse sounds are limited, but a general finding is that exposures in the 150 to 180 dB range generally have

limited potential to induce avoidance behavior (Southall *et al.,* 2007).

Anticipated Effects on Habitat

No permanent detrimental impacts to marine mammal habitat are expected to result from the project. Pile driving (resulting in temporary ensonification) may impact prey species and marine mammals by resulting in avoidance or abandonment of the area and increased turbidity; however these impacts are expected to be localized and temporary. The receiving pit will be backfilled after construction and while the intake and discharge pipes will take up a limited amount of space on the seafloor, there are no expected adverse impacts to marine mammal habitat. The pipelines will actually create additional benthic habitat for coral recruitment and growth of fish communities by increasing surface area. The discharge pipe will return slightly cooler, nutrient-rich water to the ocean. However, the discharge water will be within one degree of ambient seawater temperature and is not expected to affect marine mammal habitat.

Mitigation Measures

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. There are no relevant subsistence uses of marine mammals implicated by this action. The following measures will be required in HSWAC's authorization:

Temporal Restrictions

Based on NMFS' recommendation, HSWAC will not conduct any vibratory pile driving from December 1 through March 31. This is the peak humpback whale season for Hawaii and there is a possibility that humpback whales may occur within the project site. HSWAC agreed to restrict vibratory pile driving because elevated sound levels (120 dB or higher) from this activity could extend out 4,700 m from the source and monitoring such a large area in order to prevent Level B harassment is not feasible.

HSWAC may still conduct impact pile driving during the humpback whale season (with an additional mitigation measure). The distance to the Level B harassment zone for impact pile driving is much smaller (1,000 m) and HSWAC will monitor this area and stop pile driving in order to prevent Level B harassment of humpback whales (see next section). Further temporal restrictions are not practicable for HSWAC because pile driving cannot be conducted during summer months due to swells on the south shore of Oahu.

Establishment of an Exclusion Zone

The purpose of HSWAC's proposed exclusion zone is to prevent Level A harassment (injury) of any marine mammal species and Level B harassment of humpback whales. During all in-water impact pile driving, HSWAC will establish a radius around each pile driving site that will be continuously monitored for marine mammals. If a marine mammal is observed nearing or entering this perimeter, HSWAC will stop pile driving operations to prevent marine mammals from being exposed to sounds at or above 180 dB. More specifically, HSWAC will monitor a 91-m distance around each pile driving site. This area will encompass the estimated 180-dB isopleth of 47 m, within which injury could occur, plus an additional 44-m buffer. The exclusion zone will be monitored 30 minutes before, during, and 30 minutes after all impact pile driving to ensure that no marine mammals enter the 91-m radius. One protected species observer will be located on the pile driver barge to perform monitoring.

Based on NMFS' recommendation, HSWAC will extend the exclusion zone to 1,000 m for all large whales from December 1 through March 31. The purpose is to prevent Level B harassment of humpback whales during Hawaii's peak humpback whale season.

Once in-situ underwater sound measurements are taken, the exclusion zone may be adjusted accordingly so that marine mammals are not exposed to Level A harassment sound pressure levels. An exclusion zone does not need to be established during vibratory pile driving because source levels will not exceed the Level A harassment threshold.

Pile Driving Shut Down and Delay Procedures

If a protected species observer sees a marine mammal approaching or entering the 91-m exclusion zone (or a large whale approaching or entering the 1,000-m exclusion zone from December 1 through March 31) prior to start of impact pile driving, the observer will notify the on-site project lead (or other authorized individual) who will then be required to delay pile driving until the marine mammal has moved away or if the animal has not been resighted within NMFS' recommended 15 minutes for pinnipeds or 60 minutes for cetaceans. If a marine mammal is sighted entering or on a path toward the 91-m exclusion zone (or a large whale approaching or entering the 1,000-m exclusion zone from December 1 through March 31) during pile driving, pile driving will cease until that animal is on a path away from the exclusion zone or NMFS' recommended 15/60 minutes has lapsed since the last sighting.

Soft-Start Procedures

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the pile driver reaches full power. HSWAC will implement this technique by initiating pile driving at an energy level of about 40–60 percent. This level will be maintained for at least 5 minutes before gradually increasing the energy to full power. Soft-start procedures will be conducted prior to driving each pile if hammering ceases for more than 15 minutes.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

HSWAC will perform in-situ underwater sound monitoring during sheet pile and test pile driving operations to verify source levels and ensure that the harassment isopleths are not extending past the calculated distances described in this notice. If necessary, the 91-m exclusion zone will be expanded to include sound levels reaching 180 dB.

In addition to monitoring the 91-m exclusion zone, HSWAC will designate an observer to monitor the 160-dB zone around the sound source during all pipe pile driving (impact pile driving) operations. This observer will also be stationed on the pile driving rig and will be responsible for monitoring from the 91-m exclusion zone out to the Level B harassment zone at 1,000 m. The purpose of this observer is to: (1) Conduct behavioral monitoring of marine mammals and record any Level B takes of marine mammals that occur

during pipe pile driving operations; and (2) notify the onsite project lead (or other authorized individual) if a large whale is seen approaching or entering the 1,000-m exclusion zone from December 1 through March 31.

During at least 5 of the 16 days of sheet (i.e., vibratory) pile driving operations, HSWAC will designate two additional observers to monitor the 120-dB zone around the sound source. These observers will be stationed on a small power boat with an operator and will travel in a semi-circular route about 3.1 km from the sound source in order to observe and record any marine mammals that could be exposed to sound levels between 120–180 dB. Maximum travel speed will be 10 nautical miles per hour. Monitoring will begin 40 minutes prior to the start of sheet pile driving operations in order to observe whether any marine mammals in the area remained once pile driving operations started. Monitoring will continue during sheet pile driving operations and the observer will record all marine mammal sightings and behavior. Monitoring will end 30 minutes after pile driving operations have ceased, as long as there is daylight. At a minimum, monitoring of the 120-dB zone will occur on the first and second day of pile driving operations, followed by the fifth day, the tenth day, and fifteenth day. Observer data from the 120–180 dB area (for both pipe and sheet pile driving) will be used to validate take estimates and evaluate the behavioral impacts that pile driving has on marine mammals.

Protected species observers will be provided with the equipment necessary to effectively monitor for marine mammals (for example, high-quality binoculars, spotting scopes, compass, and range-finder) in order to determine if animals have entered into the exclusion zone or Level B harassment isopleth and to record species, behaviors, and responses to pile driving. If in-situ underwater sound monitoring indicates that threshold isopleths are greater than originally calculated, HSWAC will contact NMFS within 48 hours and make the necessary adjustments. Protected species observers will be required to submit a report to NMFS within 90 days of completion of pile driving. The report will include data from marine mammal sightings (such as species, group size, and behavior), any observed reactions to construction, distance to operating pile hammer, and construction activities occurring at time of sighting.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury, or mortality (e.g., ship-strike or gear interaction), HSWAC will immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Pacific Islands Regional Stranding Coordinator at 808–944–2269 (*David.Schofield@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with HSWAC to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. HSWAC will not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that HSWAC discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), HSWAC will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Pacific Islands Regional Stranding Coordinator at 808–973–2941 (*David.Schofield@noaa.gov*). The report will include the same information identified in the paragraph above. Activities could continue while NMFS reviews the circumstances of the incident. NMFS will work with HSWAC to determine whether modifications in the activities are appropriate.

In the event that HSWAC discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), HSWAC will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Pacific Islands Regional Stranding Coordinator at 808–944–2269 (*David.Schofield@noaa.gov*), within 24 hours of the discovery. HSWAC will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Current NMFS practice regarding exposure of marine mammals to anthropogenic noise is that in order to avoid the potential for injury (PTS), cetaceans and pinnipeds should not be exposed to impulsive sounds of 180 and 190 dB or above, respectively. This level is considered precautionary as it is likely that more intense sounds would be required before injury would actually occur (Southall *et al.,* 2007). Potential for behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB for impulse sound (such as impact pile driving) and 120 dB for continuous sound (such as vibratory pile driving). Table 2 summarized the distances to NMFS' harassment thresholds from each type of pile driving activity. Based on this information, and considering the required mitigation measures, marine mammals will not likely be exposed to sound levels reaching 180 dB (Level A harassment) or higher.

HSWAC initially requested marine mammal takes for all species that could potentially be around Hawaii at any point during the year. However, as noted in the Description of Marine

Mammals in the Area of the Specified Activity section of this document, some species only occur during winter months or are considered rare around Hawaii. Based on further consultation with the NMFS Pacific Islands Region and Pacific Islands Fisheries Science Center, NMFS is authorizing the amount of take detailed in Table 3. These numbers are based on species density around Hawaii (when available), taking habitat preference, seasonality, average group size, and number of pile driving days into consideration.

Where applicable, the density of each species was applied to the largest Level B harassment isopleth (4,700 m) and multiplied by the maximum number of pile driving days. For example, the density estimate for dwarf sperm whales is 0.31 animals within the 120 dB isopleth. This number was rounded to one and multiplied by the number of total pile driving days (72). For some species, only vibratory pile driving duration (16 days) was used to calculate take due to the following: (1) The Level B harassment zone for impact pile driving is relatively small (1,000 m); (2) impact pile driving would occur in relatively shallow water; and (3) some species prefer deep water and are unlikely to occur within the 1,000-m radius. Beaked whales were lumped together due to the difficulty in identifying them to the species level. Although vibratory pile driving is prohibited from December through March, there is still a possibility of some large whales (humpbacks and minkes) being in the area during November or April. Therefore, based on the number of pile driving days, NMFS estimated that 16 humpbacks and 16 minke whales may be exposed to Level B harassment from vibratory pile driving during this time. The authorized take numbers in Table 3 are conservative in that they indicate the maximum number of animals expected to occur within the largest Level B harassment isopleth (4,700 m).

TABLE 3—AUTHORIZED TAKES FOR MARINE MAMMALS DURING PILE DRIVING OPERATIONS

Species	Density within the project area	Expected take from vibratory pile driving (density × number of pile driving days)	Expected take from impact pile driving (density × number of pile driving days)	Authorized take
Beaked whales (Blainville's, Cuvier's, Longman's)	0.08	16	0	16
Bryde's whale	0.01	16	0	16
Dwarf sperm whale	0.31	16	56	72
False killer whale	0.05	16	0	16
Humpback whale	n/a	16	0	16
Melon-headed whale	0.10	16	0	16
Minke whale	n/a	16	0	16
Short-finned pilot whale	0.65	16	56	72
Pygmy killer whale	0.02	16	0	16
Pygmy sperm whale	0.13	16	0	16
Bottlenose dolphin	n/a			[1] 216
Fraser's dolphin	0.02	16	0	16
Risso's dolphin	0.11	16	0	16
Rough-toothed dolphin	0.35	16	0	16
Spinner dolphin	n/a			[2] 384
Pantropical spotted dolphin	0.87	16	56	72
Monk seal	1.01	32	56	[3] 88

[1] There is no density estimate for bottlenose dolphins around Hawaii, so the minimum group size (3) was multiplied by the total number of pile driving days (72).

[2] There is no density estimate for spinner dolphins around Hawaii, so the average group size (24) was multiplied by the number of vibratory pile driving days (16).

[3] Contrary to the proposed notice of IHA, density values were calculated for the proposed project area and used to estimate take. The density value in column 2 was rounded up and multiplied by the number of pile driving days.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a number of factors which include, but are not limited to, number of anticipated injuries or mortalities (none of which would be authorized here), number, nature, intensity, and duration of Level B harassment, and the context in which takes occur.

As described above, marine mammals will not be exposed to activities or sound levels which will result in injury (PTS), serious injury, or mortality. Rather, NMFS expects that some marine mammals may be exposed to elevated sound levels which will result in Level B behavioral harassment. No impacts to marine mammal reproduction are expected because the closest known monk seal haul out is outside of the Level B harassment zone for in-air sound and required mitigation and monitoring measures will prevent harassment of humpback whales during the peak humpback whale season. During winter months, humpback whales migrate to Hawaii. Some level of socializing, breeding, and/or calving is thought to take place along the south of Oahu. The highest estimates of humpback whale surface density occur around Maui, Molokai, and Lanai; however, there are estimated areas of high humpback whale surface density around the other islands and humpbacks may be present around Oahu's south shore during winter months (Mobley *et al.,* 2001). While the Hawaiian Islands Humpback Whale National Marine Sanctuary includes part of Oahu's south shore, NMFS does not expect sound levels at or above 120 dB from pile driving to reach the sanctuary boundary. Otherwise, the

project area is not considered significant habitat for marine mammals.

Required mitigation and monitoring measures are expected to prevent impacts to cetacean reproduction. Marine mammals may avoid the area around the hammer, thereby reducing their exposure to elevated sound levels. NMFS expects any impacts to marine mammal behavior to be temporary, Level B harassment (e.g., avoidance or alteration of behavior). HSWAC expects that a maximum of 72 pile driving days may occur over a 1-year period. Marine mammal injury or mortality is not likely, as the 180-dB isopleth (NMFS' Level A harassment threshold for cetaceans) for the impact hammer is expected to be no more than 47 m from the sound source. The 190 dB isopleth (NMFS' Level A harassment threshold for pinnipeds) will be even smaller. Considering the required mitigation measures, NMFS expects any changes to marine mammal behavior from pile driving noise to be temporary. The amount of take NMFS is authorizing is considered small relative to the estimated population sizes detailed in the proposed IHA notice (less than twelve percent for two species and less than seven percent for all others). There is no anticipated effect on annual rates of recruitment or survival of affected marine mammals.

Based on the analysis contained in this notice, the proposed IHA notice (77 FR 43259, July 24, 2012), and the IHA application, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS has determined that HSWAC's pile driving activities will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

The humpback whale and Hawaiian monk seal are the only marine mammals listed as endangered under the ESA with confirmed or possible occurrence in the project area during pile driving. Currently, no critical habitat has been designated for either species on or around Oahu. However, in June 2011, NMFS proposed revising the Hawaiian monk seal critical habitat by extending the current area around the Northwestern Hawaiian Islands and designating six new areas in the main Hawaiian Islands. This would include terrestrial and marine habitat from 5 m inland from the shoreline extending seaward to the 500-m depth contour around Oahu. The Hawaii insular stock of false killer whales is also currently proposed for listing under the ESA. Under section 7 of the ESA, the U.S. Army Corps of Engineers (as the federal permitting agency for HSWAC's project) consulted with NMFS Pacific Islands Region on the seawater air conditioning project. NMFS also consulted internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Section 7 consultation concluded that HSWAC's project is not likely to jeopardize the continued existence of listed species and would have no effect on designated or proposed critical habitat.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS prepared an Environmental Assessment (EA) to consider the direct, indirect, and cumulative effects to marine mammals and other applicable environmental resources resulting from issuance of a 1-year IHA and the potential issuance of future authorizations for incidental harassment for the ongoing project. NMFS made a finding of no significant impact (FONSI) and the EA and FONSI are available on the NMFS Web site listed in the beginning of this document (see **ADDRESSES**).

The U.S. Army Corps of Engineers also prepared an Environmental Impact Statement (EIS) to consider the environmental effects from the seawater air conditioning project.

Dated: September 25, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–24155 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–C–2012–0037]

Request To Make Special Program for the Law School Clinic Certification Patent Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is implementing a pilot program in which a law school clinic participating in the USPTO Law School Clinic Certification Pilot Program may file an application for a *pro bono* client of the law school clinic and that applicant's application may be advanced out of turn (accorded special status) for examination. Each school participating in the patent pilot program would be allotted up to two applications to be examined out of turn per semester. The total number of applications to be examined out of turn by law school clinics participating in the USPTO Law School Clinic Certification Pilot Program is limited to sixty-four per year.

DATES: *Effective Date:* October 1, 2012.

Duration: The Request to Make Special for the Law School Clinic Certification Pilot Program will run for the duration of the Law School Certification Clinic Pilot Program or until otherwise announced.

FOR FURTHER INFORMATION CONTACT: William R. Covey, Deputy General Counsel for Enrollment and Discipline and Director of Enrollment and Discipline, by telephone at 571–272–4097; by facsimile transmission to 571–273–0074, marked to the attention of William R. Covey; by mail addressed to: Mail Stop OED, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: New patent applications are normally taken up for examination in the order of their United States filing date. See section 708 of the Manual of Patent Examining Procedure (8th ed. 2001) (Rev. 8, July 2010) (MPEP). The USPTO has a procedure under which an application will be advanced out of turn (accorded special status) for examination if the applicant files a petition to make special with the appropriate showing. See 37 CFR 1.102 and MPEP 708.02. The USPTO revised its accelerated examination program in June of 2006, and required that all petitions to make special, except those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, comply with the requirements of the revised accelerated examination program. See Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination, 71 FR 36323 (June 26, 2006), 1308 Off. Gaz. Pat. Office 106 (July 18, 2006) (notice); Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures

Under the Leahy-Smith America Invents Act, 76 FR 59050 (September 23, 2011); see also MPEP 708.02(a) and (b). Applications that are accorded special status are generally placed on the examiner's special docket throughout its entire course of prosecution before the examiner, and have special status in any appeal to the Patent Trial and Appeal Board (PTAB) and also in the patent publication process. See MPEP 708.01 and 1309.

Currently, a participating law school clinic files the client's application and the application is placed on the regular docket of the examiner. Due to the the time for initial substantive examination, students are currently unable to receive the benefit of any action by the Office prior to completion of their clinic program. Allowing a limited number of applications per semester per school to be advanced out of turn will provide the law students with practical experience as they will be more likely to receive substantive examination of applications within the school year that the application is filed. When filing the Request to Make Special, a school must certify that it provides all patent clinic clients with patentability searches and opinions prior to qualifying to receive any application advanced out of turn. Further the school must file a Request to Make Special in order for a patent application to be granted special status.

The USPTO is implementing a pilot program to permit up to two applications per academic term filed by a law school clinic program participating in the USPTO Law School Clinic Certification Pilot Program to be advanced out of turn without meeting all of the current requirements of the accelerated examination program or prioritized examination set forth in MPEP 708.02(a) and (b). Additional applications may be advanced out of turn based upon a request by the participating law school clinic program.

Applications that are accorded special status under the Request to Make Special for the Law School Clinic Certification Pilot Program will be placed on an examiner's special docket prior to the first Office action, and will have special status in any appeal to the PTAB and also in the patent publication process. Applications accorded special status under the Request to Make Special for the Law School Clinic Certification Pilot Program, however, will be placed on the examiner's amended docket, rather than the examiner's special docket, after the first Office action (which may be an Office action containing only a restriction requirement).

An eligible law school may participate in the Request to Make Special for the Law School Clinic Certification Pilot Program by filing a request to make special that meets all of the requirements set forth in this notice. No fee is required. The $130.00 fee for a petition under 37 CFR 1.102 (other than those enumerated in 37 CFR 1.102(c)) is hereby *sua sponte* waived for requests to make special based upon the procedure specified in this notice. In addition, continuing applications will not automatically be accorded special status based on papers filed with a request in a parent application. Each continuing application must on its own meet all requirements for special status.

I. Requirements

A request to make special under the Request to Make Special for the Law School Clinic Certification Pilot may be granted in an application if the eligibility requirements set forth in section II or III and the following conditions are satisfied:

(1) The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage in compliance with 35 U.S.C. 371. Reexamination proceedings are excluded from this pilot program.

(2) The application must be submitted by a law school participating in the Law School Clinic Certification Pilot Program on behalf of a *pro bono* client.

(3) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must not contain any multiple dependent claims. For an application that contains more than three independent claims or twenty total claims, or multiple dependent claims, applicants must file a preliminary amendment in compliance with 37 CFR 1.121 to cancel the excess claims and/or the multiple dependent claims at the time the request to make special is filed.

(4) The claims must be directed to a single invention. The request must include a statement that, if the USPTO determines that the claims are directed to multiple inventions (e.g., in a restriction requirement), applicant will agree to make an election without traverse in a telephonic interview. See section III of this notice for more information.

(5) The request to make special must be filed electronically using the USPTO electronic filing system, EFS-Web, and selecting the document description of ''Certification and Request to Make Special Under the Law School Pilot Program'' on the EFS-Web screen. Applicant should use form PTO/SB/419, which will be available as a Portable Document Format (PDF) fillable form in EFS-Web and on the USPTO Web site at *http://www.uspto.gov/web/forms/index.jsp.* Information regarding EFS-Web is available on the USPTO Web site at *http://www.uspto.gov/ebc/index.html.*

(6) The request to make special must be filed at least one day prior to the date that a first Office action (which may be an Office action containing only a restriction requirement) appears in the Patent Application Information Retrieval (PAIR) system. Applicant may check the status of the application using PAIR.

(7) The request to make special must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d).

(8) The request to make special must be filed on behalf of a small entity.

II. Decision on the Request To Make Special for the Law School Clinic Certification Pilot Program

If applicant files a request to make special through the Law School Clinic Certification Pilot Program, the USPTO will decide on the request once the application is in condition for examination. If the request is granted, the application will be accorded special status under the Request to Make Special for the Law School Clinic Certification Pilot Program. The application will be placed on the examiner's special docket prior to the first Office action, and will have special status in any appeal to the PTAB and also in the patent publication process. The application, however, will be placed on the examiner's amended docket, rather than the examiner's special docket, after the first Office action (which may be an Office action containing only a restriction requirement).

If applicant files a request to make special under the Request to Make Special for the Law School Clinic Certification Pilot Program that does not comply with the requirements set forth in this notice, the USPTO will notify the applicant of the deficiency by issuing a notice, and applicant will be given only one opportunity to correct the deficiency. If applicant still wishes to participate in the Request to Make Special for the Law School Clinic Certification Pilot Program, applicant must file a proper request and make appropriate corrections within one month or thirty days, whichever is longer. The time period for reply is not extendable under 37 CFR 1.136(a). If applicant fails to correct the deficiency

indicated in the notice within the time period set forth therein, the application will not be eligible for the Request to Make Special for the Law School Clinic Certification Pilot Program and the application will be taken up for examination in accordance with standard examination procedures.

III. Requirement for Restriction

If the claims in the application are directed to multiple inventions, the examiner may make a requirement for restriction in accordance with current restriction practice prior to conducting a search. The examiner will contact the applicant and follow the procedure for the telephone restriction practice set forth in MPEP 812.01. Applicant must make an election without traverse in a telephonic interview. See item 4 of section I of this notice. If the examiner cannot reach the applicant after a reasonable effort or applicant refuses to make an election in compliance with item 4 of section I of this notice, the examiner will treat the first claimed invention as constructively elected without traverse for examination.

Dated: September 25, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012–24113 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Limitation of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary ATPDEA Countries From Regional Country Fabric

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Amending the 12-month cap on duty and quota free benefits.

DATES: Effective Date: October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, International TradeSpecialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION: *Authority:* Section 3103 of the Trade Act of 2002, Public Law 107–210; Presidential Proclamation 7616 of October 31, 2002, 67 FR 67283 (November 5, 2002); Executive Order 13277, 67 FR 70305 (November 19, 2002); and the Office of the United States Trade Representative's Notice of Authority and Further Assignment of Functions, 67 FR 71606 (November 25, 2002).

Section 3103 of the Trade Act of 2002 amended the Andean Trade Preference Act (ATPA) to provide for duty and quota-free treatment for certain textile and apparel articles imported from designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary countries. Section 204(b)(3)(B)(iii) of the amended ATPA provides duty- and quota-free treatment for certain apparel articles assembled in ATPDEA beneficiary countries from regional fabric and components, subject to quantitative limitation. More specifically, this provision applies to apparel articles sewn or otherwise assembled in one or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in one or more ATPDEA beneficiary countries, from yarns wholly formed in the United States or one or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 and 5603 of the Harmonized Tariff Schedule (HTS) and are formed in one or more ATPDEA beneficiary countries). Such apparel articles may also contain certain other eligible fabrics, fabric components, or components knit-to-shape.

Title VII of the Tax Relief and Health Care Act (TRHCA) of 2006, Public Law 107–432, extended the expiration of the ATPA to June 30, 2007. See Section 7002(a) of the TRHCA 2006. H.R. 1830, 110th Cong. (2007), further extended the expiration of the ATPA to February 29, 2008. H.R. 5264, 110th Cong. (2008), further extended the expiration of the ATPA to December 31, 2008. H.R. 7222, 110th Cong. (2008), further extended the expiration of the ATPA to December 31, 2009. H.R 4284, 111th Cong. (2009), further extended the expiration of the ATPA to December 31, 2010. H.R 6517, 111th Cong. (2010), further extended the expiration of the ATPA to February 12, 2011. H.R 3078, 112th Cong. (2011), further extended the expiration of the ATPA to July 31, 2013.

For the period beginning on October 1, 2012 and extending through July 31, 2013, preferential tariff treatment is limited under the regional fabric provision to imports of qualifying apparel articles in an amount not to exceed 5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. The 12-month period for which data are available is the 12-month period that ended July 31, 2012. This quantity is calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC. In Presidential Proclamation 7616 (published in the **Federal Register** on November 5, 2002, 67 FR 67283), the President directed CITA to publish in the **Federal Register** the aggregate quantity of imports allowed during each period.

The purpose of this notice is to extend the period of the quantitative limitation for preferential tariff treatment under the regional fabric provision for imports of qualifying apparel articles from Ecuador through July 31, 2013. For the period beginning on October 1, 2012 and extending through July 31, 2013, the aggregate quantity of imports eligible for preferential treatment under the regional fabric provision is 1,341,030,128 square meters equivalent. Apparel articles entered in excess of this quantity will be subject to otherwise applicable tariffs.

Kim Glas,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2012–24137 Filed 9–28–12; 8:45 am]

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limitations of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries from Regional and Third-Country Fabric

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the new 12-month cap on duty- and quota-free benefits.

DATES: Effective October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Don Niewiaroski, Jr., International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2496.

SUPPLEMENTARY INFORMATION: *Authority:* Title I, Section 112(b)(3) of the Trade and Development Act of 2000 (TDA 2000), Public Law 106–200, as amended by Division B, Title XXI, section 3108 of the Trade Act of 2002, Public Law 107–210; Section 7(b)(2) of the AGOA

Acceleration Act of 2004, Public Law 108–274; Division D, Title VI, section 6002 of the Tax Relief and Health Care Act of 2006 (TRHCA 2006), Public Law 109–432, and section 1, Public Law 112–163, August 10, 2012; Presidential Proclamation 7350 of October 2, 2000 (65 FR 59321); and Presidential Proclamation 7626 of November 13, 2002 (67 FR 69459).

Title I of TDA 2000 provides for duty- and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of TDA 2000 provides duty- and quota-free treatment for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary countries from yarn originating in the U.S. or one or more beneficiary countries. This preferential treatment is also available for apparel articles assembled in one or more lesser-developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles, subject to quantitative limitation. Public Law 112–163 extended this special rule for lesser-developed countries through September 30, 2015.

The AGOA Acceleration Act of 2004 provides that the quantitative limitation for the twelve-month period beginning October 1, 2012 will be an amount not to exceed 7 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. *See* Section 112(b)(3)(A)(ii)(I) of TDA 2000, as amended by Section 7(b)(2)(B) of the AGOA Acceleration Act of 2004. Of this overall amount, apparel imported under the special rule for lesser-developed countries is limited to an amount not to exceed 3.5 percent of all apparel articles imported into the United States in the preceding 12-month period. *See* Section 112(b)(3)(B)(ii)(II) of TDA 2000, as amended by Section 6002(a) of TRHCA 2006. Presidential Proclamation 7350 of October 2, 2000 directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the **Federal Register**.

For the one-year period, beginning on October 1, 2012, and extending through September 30, 2013 the aggregate quantity of imports eligible for preferential treatment under these provisions is 1,735,859,926 square meters equivalent. Of this amount, 867,929,963 square meters equivalent is available to apparel articles imported under the special rule for lesser-developed countries. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

Kimberly Glas,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2012–24122 Filed 9–28–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On August 23, 2012, the Department of Education published a 60-day public comment period notice in the **Federal Register** (Page 51021, Column 2). In the **SUMMARY** section of the notice (Page 51021, Column 1), the changes were identified as being related to proposed regulatory changes. That identification is incorrect. This is an extension of a currently approved information collection request. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: September 25, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–24060 Filed 9–28–12; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Amended Notice: Request for Substantive Comments on the EAC's Proposed Requirements for Version 1.1 of the Voluntary Voting System Guidelines (VVSG)

AGENCY: United States Election Assistance Commission.

ACTION: Request for public comment on proposed requirements for Version 1.1 of the Voluntary Voting System Guidelines (VVSG).

SUMMARY: This notice is being amended to provide for a one hundred thirty (130) day comment period. The original ninety (90) day public comment period provided for in the initial notice is amended in order to allow the election community additional time to comment after the November 2012 Presidential election. As required by Section 222(d) of HAVA, the U.S. Election Assistance Commission (EAC) is publishing for public comment a set of proposed requirements, the Voluntary Voting System Guidelines, Version 1.1. The VVSG provides specifications and standards against which voting systems can be tested to determine if they provide basic functionality, accessibility, and security capabilities.

DATES: Comments must be received on or before 4 p.m. EST on January 14, 2013.

Submission of Comments: The public may submit comments through one of the two different methods provided by the EAC: (1) email submissions to *votingsystemguidelines@eac.gov;* (2) by mail to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1201 New York Ave. NW., Suite 300, Washington, DC 20005.

In order to allow efficient and effective review of comments the EAC requests that:

(1) Comments refer to the specific section that is the subject of the comment.

(2) General comments regarding the entire document or comments that refer to more than one section be made as specifically as possible so that EAC can clearly understand to which portion(s) of the documents the comment refers.

(3) To the extent that a comment suggests a change in the wording of a requirement or section of the guidelines, please provide proposed language for the suggested change.

All comments submitted will be published at the end of the comment period on the EAC's Web site at *www.eac.gov.* This publication and request for comment is not required under the rulemaking, adjudicative, or licensing provisions of the Administrative Procedures Act (APA). It is a voluntary effort by the EAC to gather input from the public on the EAC's administrative procedures for certifying voting systems to be used in pilot projects. Furthermore, this request by the EAC for public comment is not intended to make any of the APA's rulemaking provisions applicable to

development of this or future EAC procedural programs.

An electronic copy of the proposed guidance may be found on the EAC's Web site at *http://www.eac.gov/open/comment.aspx.*

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Phone (202) 566–3100, email *votingsystemguidelines@eac.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EAC made the decision to update and revise the 2005 VVSG (also known as VVSG 1.0) as a result of feedback received through its Voting System Testing and Certification Program. As the EAC has worked to test and certify voting systems it observed and received feedback from various sources that the standards being tested to were at times ambiguous and difficult to apply in testing. This ambiguity led to challenges in making testing consistent both within a test laboratory and across test campaigns at different laboratories. The EAC also received feedback from the National Institute of Standards and Technology (NIST) that the creation of formalized test suites for the 2005 VVSG would be aided by a clarification of certain portions of document. This information, combined with the EAC's issuance of thirty five interpretations of the VVSG to clarify various standards, led the EAC to propose improvements to the 2005 VVSG. In addition, the EAC determined to implement a number of recommendations submitted by the EAC's Technical Guidelines Development Committee (TGDC).

The TGDC held numerous public meetings and subcommittee conference calls to create a set of draft guidelines for recommendation to the EAC (all TGDC meeting materials can be found at *http://www.nist.gov/itl/vote/*). On August 17, 2007, the TGDC voted to complete final edits of their recommendations and submitted them to the Executive Director of the EAC. The EAC received the draft guidelines from the TGDC on August 31, 2007.

After receipt of the TGDC's recommendations for the next iteration (VVSG 2.0) of the VVSG the EAC opened a one hundred and eighty day public comment period. During this comment period, which ran from September 2007 to May 2008, the EAC received comments praising many of the proposed standards as being more testable and less ambiguous than previous versions of the standard. This public comment period produced over 3000 comments on the recommendations. In addition, during the comment period the EAC conducted a series of seven roundtable discussions regarding the TGDC's recommendations. After the close of the public comment period for the TGDC's VVSG 2.0 recommendations and considering a variety of relevant factors, the EAC made the decision to first update and revise the 2005 VVSG with portions of the TGDC's recommendations. This serves as the basis for the creation of VVSG 1.1.

As noted during the previous public comment period for version VVSG 1.1, by revising the guidelines now, the EAC expects to improve the test process over the short term for existing voting systems while allowing additional time to develop more complex revisions for the requirements in VVSG 2.0 written for the next generation of voting systems. Topics currently undergoing continued research at NIST include open ended vulnerability testing/penetration testing, volume testing, further development of the concept of software independence and the development (with IEEE Working Group P1622 of a common data format for voting systems.

Changes to VVSG 1.1 Since the Initial Public Comment Period

The initial proposed revision to VVSG 1.1, was offered during a 120-day public comment period in the summer of 2009. Since that time, the EAC's Testing & Certification Program has discovered additional best practices, experienced anomalies and deficiencies with voting systems entering the Testing and Certification Program, and clarified many ambiguities with the standard. Changes were made after the 120-day public comment period to address these issues. Since the initial public comment, changes were made to the following areas:

Heading	Comment
Telecommunications	Treated all results as official.
NSRL	Removed all references.
Software Validation	Provided a secondary method of software validation not available in the 2005 VVSG.
Access Control	Enhanced access control requirements based on the two—tier access control model present in today's election equipment.
Quality Assurance and Configuration Management	Combined sections 8 and 9 into a single section.
Coding Convention	
Required Languages	Required all systems to officially support at least one ideographic language.
Audit and Election Logging	Enhanced and strengthen logging requirements by providing greater clarity and specific, especially for election logs.

Additionally, the EAC included all relevant Requests for Interpretations (located at the EAC's Web site) within the latest draft of VVSG 1.1. Please be aware that those sections added since the close of the initial public comment period for VVSG 1.1 are the only sections that the EAC is accepting comments on for this 90-day public comment period.

Project Summary

Although both Volume 1 and Volume 2 of the VVSG 1.1 draft have undergone revisions, and should be commented on, we believe most commenter's should focus on the significant changes to Volume 1 of the draft document. Major sections of VVSG 1.1 Volume 1 revised for this comment period include but are not limited to:

Volume 1

2.12 Accuracy

2.1.4 Integrity

2.1.5.1 Operational Requirements

2.3.1 Opening the Polls

2.3.3.3 DRE and EBM System requirements

2.4.1 Closing the Polls

2.4.4.2 Tabulator electronic reports

3.2.2.1 Editable electronic ballot interfaces

3.2.5 Visual display characteristics

3.3.2 Enhanced visual interfaces

3.3.4 Enhanced input and control characteristics

4.1.1 Accuracy requirements

4.1.2 Environmental requirements

4.1.2.4 Electrical supply

4.1.5.2 Ballot reading accuracy

4.3.3 Reliability
5.2.1 Scope (Software requirements)
5.2.2 Selection of programming languages
5.2.4 Software modularity and programming
5.2.5 Structured programming
5.2.8 Error checking
5.5 Vote secrecy on DRE and EBM systems
6.2.2 Durability (Telecommunications)
6.2.3 Reliability
7.1 Scope (Security requirements)
7.2 Access control
7.3 Physical security measures
7.4.4 Software distribution
7.4.5 Software reference information
7.4.6 Software setup validation
7.5.1 Maintaining data integrity
7.5.5 Election returns
7.7.3 Protecting transmitted data
7.8.2 Approve or void the paper record
7.8.3 Electronic and paper record structure
8 Quality Assurance and Configuration Management (all)

All changes made since the last public comment period are highlighted in yellow in the version published on the EAC's Web site and in the **Federal Register**.

The U.S. Election Assistance Commission (EAC) lacks a quorum of commissioners since the resignation of Commissioner Gracia Hillman on December 10, 2010. The EAC lost its two remaining commissioners in December 2011, with the resignations of Commissioners Gineen Bresso and Donetta Davidson. Because HAVA requires an affirmative vote of the Commission (Section 222(d)), all comments received will be reviewed and published as noted below. The final VVSG 1.1 draft document will be prepared for a Commission vote at such time as the EAC once again has a quorum of Commissioners.

Alice P. Miller,

Chief Operating Officer and Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2012–24029 Filed 9–28–12; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DW–007]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to BSH Corporation From the Department of Energy Residential Dishwasher Test Procedure

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW–007) that grants to BSH Corporation (BSH) a waiver from the DOE dishwasher test procedure for certain basic models containing integrated or built-in water softeners. Under today's decision and order, BSH shall be required to test and rate its dishwashers with integrated water softeners using an alternate test procedure that takes this technology into account when measuring energy and water consumption.

DATES: This Decision and Order is effective October 1, 2012 through May 29, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants BSH a waiver from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with built-in or integrated water softeners, provided that BSH tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits BSH from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions of the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on September 18, 2012.

Kathleen B. Hogan,

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

Decision and Order

In the Matter of: BSH Corporation (Case No. DW–007)

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III provides for the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' [1] 42 U.S.C. 6291–6309. Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for residential dishwashers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix C.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

[1] For editorial reasons, on codification in the U.S. Code, Part B was re-designated Part A.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. BSH's Petition for Waiver: Assertions and Determinations

On December 7, 2011, BSH submitted the instant petition for waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C. BSH's petition was published in the **Federal Register** on April 2, 2012. 77 FR 19650. DOE received no comments on the BSH petition. In every respect except the introduction of new model numbers, the instant petition is identical to a petition submitted by BSH on February 4, 2011 (Case No. DW–005). DOE granted the earlier petition on June 29, 2011 (76 FR 38144).

BSH states that ''hard'' water can reduce customer satisfaction with dishwasher performance, resulting in increased pre-rinsing and/or hand washing as well as increased detergent and rinse agent usage. According to BSH, a dishwasher equipped with a water softener will minimize pre-rinsing and rewashing, and consumers will have less reason to periodically run their dishwasher through a clean-up cycle.

BSH also states that the amount of water consumed by the regeneration operation of a water softener in a dishwasher is very small, but that it varies significantly depending on the adjustment of the softener. The regeneration operation takes place infrequently, and the frequency is related to the level of water hardness. BSH included test results and calculations showing the water and energy use of the specified dishwasher models using the same method as that used by Whirlpool in its petition for waiver, which was granted previously by DOE. (75 FR 62127, Oct. 7, 2010). BSH states that the water used in the regeneration process is for the purpose of softening water rather than cleaning dishes. Therefore, according to BSH, this water and energy should not be included in the energy usage figures for washing dishes. As an alternate test procedure, BSH suggests using European Standard EN50242, ''Electric Dishwashers for Household Use—Methods for Measuring the Performance'', which does not include the water or energy used in the water softening process in the dishwasher energy consumption calculation.

Use of EN 50242 would provide repeatable results, but would underestimate the energy and water use of the specified models. If water consumption of a regeneration operation were apportioned across all cycles of operation, manufacturers would need to make calculations regarding average water hardness and average water consumptions due to regeneration operations. In lieu of these calculations, constant values could also be used to approximate the energy and water use due to softener regeneration. In its petition, BSH requests that constant values of 47.6 gallons per year for water consumption and 8.0 kWh per year for energy consumption be used.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the BSH petition for waiver. The FTC staff did not have any objections to granting a waiver to BSH.

III. Conclusion

After careful consideration of all the material submitted by BSH and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by the BSH Corporation (Case No. DW–007) is hereby granted as set forth in the paragraphs below.

(2) BSH shall be required to test or rate the following models according to the alternate test procedure as set forth in paragraph (3) below:

Bosch brand:

- *Basic Model—SHE7ER5#UC*
  - *SHE7ER5#UC*
  - *SHV7ER5#UC*
  - *SHX7ER5#UC*
  - *SGE63E1#UC*
  - *SHE9ER5#UC*
  - *SHV9ER5#UC*
  - *SHX9ER5#UC*
  - *SHE8ER5#UC*
  - *SHX8ER5#UC*
- *Basic Model—SPE5ES5#UC*
  - *SPE5ES5#UC*
  - *SPV5ES5#UC*
  - *SPX5ES5#*

Thermador brand:

- *Basic Model—DWHD650G##*
  - *DWHD650G##*
  - *DWHD651GFP*
- *Basic Model—DWHD640J##*
  - *DWHD640J##*
- *Basic Model—DWHD651J##*
  - *DWHD650J##*
  - *DWHD651J##*

(3) BSH shall be required to test the products listed in paragraph (2) above according to the test procedures for dishwashers prescribed by DOE at 10 CFR part 430, appendix C, except that, for the BSH products listed in paragraph (2) only:

In Section 4.1, *Test cycle,* add at the end, ''The start of the DOE test should begin on a cycle immediately following a regeneration cycle.''

In Section 4.3, the water energy consumption, W or Wg, is calculated based on the water consumption as set forth below:

4.3 Water consumption. Measure the water consumption, V, expressed as the number of gallons of water delivered to the machine during the entire test cycle, using a water meter as specified in section 3.3 of this Appendix.

Where the regeneration of the water softener depends on demand and water hardness, and does not take place on every cycle, BSH shall measure the water consumption of dishwashers having water softeners without including the water consumed by the dishwasher during softener regeneration. If a regeneration operation takes place within the test, the water consumed by the regeneration operation shall be disregarded when declaring water and energy consumption. Constant values of 47.6 gallons/year of water and 8 kWh/year of energy shall be added to the values measured by appendix C.

(4) Representations. BSH may make representations about the energy use of its dishwashers containing integrated or built-in water softeners for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m). The dishwasher test procedure final rule, issued on September 14, 2012 and available at *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/aham-1_tp_final_rule.pdf,* includes procedures to measure the energy and water use of

integrated or built-in water softeners. The compliance date for these procedures is May 30, 2013. Therefore, this Decision and Order is valid through May 29, 2013. Beginning on May 30, 2013, all manufacturers must use the amended test procedures to determine the energy and water use associated with water softener regeneration.

(6) This waiver is granted for only those models specifically set out in BSH's petition, not future models that may be manufactured by BSH. BSH may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional dishwasher models for which it seeks a waiver from the DOE test procedure. Grant of this waiver also does not release BSH from the certification requirements set forth at 10 CFR Part 429.

(7) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on September 18, 2012.

Kathleen B. Hogan,

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

[FR Doc. 2012–24093 Filed 9–28–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DW–008]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to BSH Corporation From the Department of Energy Residential Dishwasher Test Procedure

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

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW–008) that grants to BSH Corporation (BSH) a waiver from the DOE dishwasher test procedure for certain basic models containing integrated or built-in water softeners. Under today's decision and order, BSH shall be required to test and rate its dishwashers with integrated water softeners using an alternate test procedure that takes this technology into account when measuring energy and water consumption.

DATES: This Decision and Order is effective October 1, 2012 through May 29, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov*.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants BSH a waiver from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with built-in or integrated water softeners, provided that BSH tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits BSH from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions of the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on September 18, 2012.

Kathleen B. Hogan,

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

Decision and Order

In the Matter of: BSH Corporation (Case No. DW–008)

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III provides for the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' [1] 42 U.S.C. 6291–6309. Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for residential dishwashers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix C.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

[1] For editorial reasons, on codification in the U.S. Code, Part B was re-designated Part A.

II. BSH's Petition for Waiver: Assertions and Determinations

On March 27, 2012, BSH submitted the instant petition for waiver and interim waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C. BSH's petition was published in the **Federal Register** on June 6, 2012. 77 FR 33450. DOE received no comments on the petition. In every respect except the introduction of a new model number, the instant petition is identical to petitions submitted by BSH on February 4, 2011 (Case No. DW–005) and December 7, 2011 (Case No. DW–007). DOE granted petition DW–005 on June 29, 2011 (76 FR 38144); DOE granted an interim waiver to BSH for the model numbers specified in petition DW–007 and published that petition for comment on April 2, 2012 (77 FR 19650).

BSH states that ''hard'' water can reduce customer satisfaction with dishwasher performance resulting in increased pre-rinsing and/or hand washing as well as increased detergent and rinse agent usage. According to BSH, a dishwasher equipped with a water softener will minimize pre-rinsing and rewashing, and consumers will have less reason to periodically run their dishwasher through a clean-up cycle.

BSH also states that the amount of water consumed by the regeneration operation of a water softener in a dishwasher is very small, but that it varies significantly depending on the adjustment of the softener. The regeneration operation takes place infrequently, and the frequency is related to the level of water hardness. BSH included test results and calculations showing the water and energy use of the specified dishwasher models using the same method as that used by Whirlpool in its petition for waiver, which was granted previously by DOE. (75 FR 62127, Oct. 7, 2010). BSH states that the water used in the regeneration process is for the purpose of softening water rather than cleaning dishes. Therefore, according to BSH, this water and energy should not be included in the energy usage figures for washing dishes. As an alternate test procedure, BSH suggests using European Standard EN50242, ''Electric Dishwashers for Household Use—Methods for Measuring the Performance'', which does not include the water or energy used in the water softening process in the dishwasher energy consumption calculation.

Use of EN 50242 would provide repeatable results, but would underestimate the energy and water use of the specified models. If water consumption of a regeneration operation were apportioned across all cycles of operation, manufacturers would need to make calculations regarding average water hardness and average water consumptions due to regeneration operations. In lieu of these calculations, constant values could also be used to approximate the energy and water use due to softener regeneration. In its petition, BSH requests that constant values of 47.6 gallons per year for water consumption and 8.0 kWh per year for energy consumption be used.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the BSH petition for waiver. The FTC staff did not have any objections to granting a waiver to BSH.

III. Conclusion

After careful consideration of all the material that was submitted by BSH and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by the BSH Corporation (Case No. DW–008) is hereby granted as set forth in the paragraphs below.

(2) BSH shall be required to test and rate the following models according to the alternate test procedure as set forth in paragraph (3) below:

Bosch brand:

- Basic Model—SHX5ER##

(3) BSH shall be required to test the products listed in paragraph (2) above according to the test procedures for dishwashers prescribed by DOE at 10 CFR part 430, appendix C, except that, for the BSH products listed in paragraph (2) only:

In Section 4.1, *Test cycle,* add at the end, ''The start of the DOE test should begin on a cycle immediately following a regeneration cycle.''

In Section 4.3, the water energy consumption, W or Wg, is calculated based on the water consumption as set forth below:

4.3 *Water consumption.* Measure the water consumption, V, expressed as the number of gallons of water delivered to the machine during the entire test cycle, using a water meter as specified in section 3.3 of this Appendix.

Where the regeneration of the water softener depends on demand and water hardness, and does not take place on every cycle, BSH shall measure the water consumption of dishwashers having water softeners without including the water consumed by the dishwasher during softener regeneration. If a regeneration operation takes place within the test, the water consumed by the regeneration operation shall be disregarded when declaring water and energy consumption. Constant values of 47.6 gallons/year of water and 8 kWh/year of energy shall be added to the values measured by appendix C.

(4) Representations. BSH may make representations about the energy use of its dishwashers containing integrated or built-in water softeners for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m). The dishwasher test procedure final rule, issued on September 14, 2012 and available at *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/aham-1_tp_final_rule.pdf,* includes procedures to measure the energy and water use of integrated or built-in water softeners. The compliance date for these procedures is May 30, 2013. Therefore, this Decision and Order is valid through May 29, 2013. Beginning on May 30, 2013, all manufacturers must use the amended test procedures to determine the energy and water use associated with water softener regeneration.

(6) This waiver is granted for only those models specifically set out in BSH's petition, not future models that may be manufactured by BSH. BSH may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional dishwasher models for which it seeks a waiver from the DOE test procedure. Grant of this waiver also does not release BSH from the certification requirements set forth at 10 CFR Part 429.

(7) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

[FR Doc. 2012–24092 Filed 9–28–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–144–000.
Applicants: San Luis Solar LLC.
Description: San Luis Solar LLC submits an Application for authorization of a sale/leaseback transaction related to the financing of a 30 MW solar-powered electric generating facility.
Filed Date: 9/21/12.
Accession Number: 20120921–5165.
Comments Due: 5 p.m. ET 10/12/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1933–002; ER10–2441–002.
Applicants: Green Mountain Power Corporation, Central Vermont Public Service Corporation.
Description: Green Mountain Power Corporation and Central Vermont Public Service Corporation Supplement to Notice of Material Change in Status, *et al.*
Filed Date: 9/7/12.
Accession Number: 20120907–5086.
Comments Due: 5 p.m. ET 9/28/12.

Docket Numbers: ER12–2436–001.
Applicants: Arizona Public Service Company.
Description: Compliance Filing for Service Agreement No. 324, Foothills Solar LGIA to be effective 8/30/2012.
Filed Date: 9/24/12.
Accession Number: 20120924–5057.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: ER12–2601–001.
Applicants: Rayonier Performance Fibers, LLC.
Description: Supplement to Application for Market-Based Rate Authorization to be effective 9/8/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5129.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2674–000.
Applicants: AEP Texas North Company.
Description: TNC–SWTEC Amd #1 to Restated & Amended IA to be effective 8/28/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5130.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2675–000.
Applicants: Power Receivable Finance, LLC.
Description: MBR Cancellation to be effective 11/20/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5131.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2676–000.
Applicants: Piedmont Green Power, LLC.
Description: Application for Market-Based Rate Authority and tariff filing to be effective 9/24/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5132.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2677–000.
Applicants: California Independent System Operator Corporation.
Description: 2012–09–21 CAISO Certificate of Concurrence Filing re Tulloch Powerhouse LGIA to be effective 3/31/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5133.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2678–000.
Applicants: Wisconsin Electric Power Company.
Description: Blackstart Resource Service Agreement to be effective 7/1/2013.
Filed Date: 9/24/12.
Accession Number: 20120924–5000.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: ER12–2679–000.
Applicants: Southern California Edison Company.
Description: SGIA and Distribution Service Agreement Aikyum Deep Creek Solar Project to be effective 9/25/2012.
Filed Date: 9/24/12.
Accession Number: 20120924–5056.
Comments Due: 5 p.m. ET 10/15/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES12–56–000.
Applicants: Consolidated Edison Company of New York,
Description: Consolidated Edison Company of New York, Inc's Application for an order pursuant to Section 204 of the Federal Power Act authorizing the issue and sale of short-term debt not in excess of $2.25 billion at any one time outstanding.
Filed Date: 9/21/12.
Accession Number: 20120921–5164.
Comments Due: 5 p.m. ET 10/12/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 24, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24042 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–143–000.
Applicants: Interstate Power and Light Company.
Description: Application of Interstate Power and Light Co. for transaction approval pursuant to Federal Power Act? 203.
Filed Date: 9/21/12.
Accession Number: 20120921–5096.
Comments Due: 5 p.m. ET 10/12/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2074–003; ER10–2097–005.
Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.
Description: Notice of Change in Status of Kansas City Power & Light Company, et. al.
Filed Date: 9/21/12.
Accession Number: 20120921–5090.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2154–000
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per: OATT Attachment N Deficiency Response to be effective N/A.
Filed Date: 9/21/12.
Accession Number: 20120921–5069.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2667–000.
Applicants: Florida Power & Light Company.
Description: FPL Notice of Termination of Orlando Utilities Commission SA Nos. 307 and 308 to be effective 11/19/2012.

Filed Date: 9/20/12.
Accession Number: 20120920–5121.
Comments Due: 5 p.m. ET 10/11/12.

Docket Numbers: ER12–2670–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits tariff filing per 35: Certificate of Concurrence-TEP and PNM rate schedule 321 to be effective 5/17/2011.
Filed Date: 9/21/12.
Accession Number: 20120921–5045.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2671–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: RTEP clean-up filing re accepted language in ER12–2085 & ER12–2288 to be effective 9/19/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5057.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2672–000.
Applicants: Sempra Energy Trading LLC.
Description: Sempra Energy Trading LLC submits Notice of Cancellation.
Filed Date: 9/21/12.
Accession Number: 20120921–5064.
Comments Due: 5 p.m. ET 10/12/12.

Docket Numbers: ER12–2673–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: EWEB Non-Conforming Point to Point Agreement to be effective 9/11/2012.
Filed Date: 9/21/12.
Accession Number: 20120921–5065.
Comments Due: 5 p.m. ET 10/12/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23945 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP12–517–000.
Applicants: Columbia Gas of Maryland, Inc.
Description: Application for a Limited Jurisdictional Blanket Certificate of Public Convenience and necessity, pursuant to Section 284.224.
Filed Date: 9/7/12.
Accession Number: 20120907–5132.
Comments Due: 5 p.m. ET 10/5/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 24, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23946 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1940–000 Wisconsin; Project No. 1966–000 Wisconsin]

Wisconsin Public Service Corporation; Notice of Environmental Site Review

In anticipation of the filing of Notices of Intent (NOI) and Pre-Application Documents for the Grandfather Falls Hydroelectric Project No. 1966 and Tomahawk Hydroelectric Project No. 1940 owned and operated by Wisconsin Public Service Corporation and located on the Wisconsin River in Lincoln County, Wisconsin, the Federal Energy Regulatory Commission (Commission) staff will be hosting environmental site reviews during the third week of October 2012.

The environmental site reviews are being held to provide Commission staff and all stakeholders interested in the projects' pending relicensing proceedings, an opportunity to view the projects' facilities and surrounding areas.

Under the Commission's Integrated Licensing Process, Commission staff conducts its National Environmental Policy Act (NEPA) scoping meetings within 90 days of the filing of an applicant's Notice of Intent. An environmental site review is typically held in conjunction with the scoping meetings. However, in this instance, access to some project facilities and viewing of areas with native vegetation may be limited by winter weather during the latter part of 2012 when scoping for the projects is currently anticipated. For this reason, Commission staff has chosen to conduct the environmental site reviews in October before the onset of winter and when natural vegetation is still apparent. Therefore, Commission staff will not conduct any environmental site reviews at the time of the scoping meetings. The Commission staff encourages all interested parties to participate in the October environmental site reviews to facilitate productive scoping meetings tentatively anticipated for later this year. Details of the project-specific environmental site reviews follow.

Tomahawk Hydroelectric Project No. 1940

- Tour of Tomahawk Project Facilities

Date and Time: October 16, 2012 at 9 a.m.
Location: Tomahawk Project Powerhouse, W6080 Pride Ponds Road, Tomahawk, WI 54487.

- Tomahawk Project Reservoir Tour

Date and Time: October 16, 2012 at 1 p.m.
Location: Tomahawk Project Powerhouse, W6080 Pride Ponds Road, Tomahawk, WI 54487.

Grandfather Falls Hydroelectric Project No. 1966

- Tour of Grandfather Falls Project Facilities

Date and Time: October 17, 2012 at 9 a.m.
Location: Grandfather Falls Project Powerhouse, N5059 Highway 107, Irma, WI 54442.

• Tour of Grandfather Falls Bypassed Reach of the Wisconsin River

Date and Time: October 17, 2012 at 1 p.m.

Location: Grandfather Falls Project Powerhouse, N5059 Highway 107, Irma, WI 54442.

If you plan to attend the environmental site reviews, please R.S.V.P. to Gregory W. Egtvedt, Wisconsin Public Service Corporation, by October 10, 2012, and identify the number of individuals in your group. Mr. Egtvedt can be reached at: Mr. Gregory W. Egtvedt, Manager Environmental Assets & Licensing, Integrys Business Support, LLC, 700 North Adams Street, P.O. Box 19001, Green Bay, WI 54307–9001, Phone: (920) 433–5713; Cell (920) 655–3785, Email: *GWEgtvedt@integrysgroup.com*.

If you need further logistical information or directions for participating in the environmental site reviews, please contact Mr. Egtvedt. All other questions regarding the environmental site reviews or the Commission's Integrated Licensing Process may be directed to Lee Emery of the Commission's staff at (202) 502–8379 or via email at *lee.emery@ferc.gov*.

Dated: September 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24105 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2662–000]

Park Power 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 Park Power LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 15, 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(s) 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: September 24, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23947 Filed 9–28–12; 8:45 am]

BILLING CODE 6717–01–P

EXPORT–IMPORT BANK

[Public Notice 2012–0523]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and comments request.

Form Title: EIB 92–64 Application for Exporter Short Term Single Buyer Insurance.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The ''Application for Exporter Short Term Single Buyer Insurance'' form will be used by entities involved in the export of US goods and services, to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

The application can be reviewed at: *www.exim.gov/pub/pending/EIB92-64.pdf.* Application for Exporter Short Term Single Buyer Insurance.

DATES: Comments should be received on or before October 31, 2012 to be assured of consideration.

ADRESSES: Comments maybe submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038 Attn: OMB 3048–0018.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–64. Application for Exporter Short Term Single Buyer Insurance.

OMB Number: 3048–0018.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Annual Number of Respondents: 310.

Estimated Time per Respondent: 1.5 hours.

Government Annual Burden Hours: 465 hours.

Frequency of Reporting or Use: As needed.

Government Review Time: 6 hours.

Total Hours: 1,860.

Cost to the Government: $72,020.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–24053 Filed 9–28–12; 8:45 am]

BILLING CODE 6690–01–P

EXPORT–IMPORT BANK OF THE UNITED STATES

[Public Notice 2012–0521]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and comments request.

Form Title: EIB 05–01 Marketing Fax Back Response Form.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Marketing Fax Back Response Form is used to collect basic information on United States companies. This information will be provided the Export Import Bank's financial consultants nationwide and will be used to provide assistance to exporters.

The form may be viewed at *www.exim.gov/pub/pending/eib05-01.pdf* Marketing Fax Back Response Forms.

DATES: Comments should be received on or before October 31, 2012 to be assured of consideration.

ADDRESSES: Comments maybe submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048–0029.

SUPPLEMENTARY INFORMATION: Titles and Form Number EIB 05–01 Marketing Fax Back Response Form:

OMB Number: 3048–0029.

Type of Review: Regular.

Need and Use: The Marketing Fax Back Response Form is used to collect basic information on United States companies. This information will be provided the Export Import Bank's financial consultants nationwide to assist in providing counsel to exporters.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 3 minutes.

Frequency of Reporting or Use: Once per year.

Government Annual Burden Hours: 25 hours.

Estimated Annual Government costs: $968.00.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–24054 Filed 9–28–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501 *et seq.,* the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the PRA. On June 6, 2012 (77 FR 33457), the FDIC solicited public comment for a 60-day period on the renewal of the following information collection: Temporary Liquidity Guarantee Program. No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before October 31, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collection of information:

Title: Temporary Liquidity Guarantee Program.

OMB Number: 3064–0166.

A. Subsequent Reports on Senior Unsecured Debt

Affected Public: FDIC-insured depository institutions, thrift holding companies, bank and financial holding companies.

Estimated Number of Respondents: 5.

Frequency of Response: Monthly.

Estimated Annual Burden Hours: 2 hours.

Estimated Total Annual Burden Hours: 120 hours.

B. Guaranteed Debt Holders' Claims for Participating Entities in Default

Affected Public: FDIC-insured depository institutions, thrift holding companies, bank and financial holding companies.

Estimated Number of Respondents: 15.

Frequency of Response: Annually.

Estimated Annual Burden per Response: 3 hours.

Estimated Total Annual Burden Hours: 45 hours.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 26th day of September 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–24049 Filed 9–28–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Public Disclosure by Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501 *et seq.*, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the PRA. On July 24, 2012 (77 FR 43283), the FDIC solicited public comment for a 60-day period on renewal of the following information collection: Public Disclosure by Banks (OMB No. 3064–0090). No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before November 30, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Public Disclosure by Banks.

OMB Number: 3064–0090.

Frequency of Response: Annually.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 4,485.

Estimated Time per Response: 0.5 hour.

Total Annual Burden: 2,243 hours.

General Description: 12 CFR 350 requires a bank to notify the general public, and in some instances shareholders, that financial disclosure statements are available on request. Required disclosures consist of financial reports for the current and preceding year, which can be photocopied directly from the year-end call reports. Also, on a case-by-case basis, the FDIC may require that descriptions of enforcement actions be included in disclosure statements. The regulation allows, but does not require, the inclusion of management discussions and analysis.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 26th day of September 2012.

Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

[FR Doc. 2012–24047 Filed 9–28–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10112—First Bank of Kansas City, Kansas City, MO

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for First Bank of Kansas City, Kansas City, Missouri (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of First Bank of Kansas City on July 2, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight, Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this timeframe.

Dated at Washington, DC, this 26th day of September 2012.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–24048 Filed 9–28–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, October 4, 2012 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of the Minutes for the Meeting of September 20, 2012

Draft Advisory Opinion 2012–25: American Future Fund, American Future Fund Political Action, Mr. David McIntosh and David McIntosh for Indiana

Draft Advisory Opinion 2012–33: Pennsylvania Democratic Party

Audit Division Recommendation Memorandum on the Minnesota Democratic-Farmer-Labor Party (MNDFL) (A09–08)

Audit Division Recommendation Memorandum on Rightmarch.com PAC, Inc. (A09–25)

Candidate and Committee Viewer Demonstration

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting 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. 2012–24232 Filed 9–27–12; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL TRADE COMMISSION

[File No. 112 3155]

CarePatrol, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

Correction

In notice document 2012–23412 appearing on pages 58837–58838 in the issue of Monday, September 24, 2012, make the following correction:

On page 58837, in the third column, in the eighth line, ''Write ACarePatrol'' should read ''Write ''CarePatrol''.

[FR Doc. C1–2012–23412 Filed 9–28–12; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL TRADE COMMISSION

[File No. 112 3168]

ABCSP, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

Correction

In notice document 2012–23413 appearing on pages 58838–58840 in the issue of Monday, September 24, 2012, make the following corrections:

1. On page 58839, in the first column, in the seventeenth line, ''AABSCP'' should read ''ABSCP''.

2. On the same page, in the same column, in the fifth to fourth lines from the bottom, '''Write AABSCP'' should read ''Write'' ''ABSCP''.

3. On the same page, in the same column, in the second line from the bottom ''comment B including'' should read ''comment–including''.

4. On the same page, in the same column, in the last line ''state B will'' should read ''state–will''.

[FR Doc. C1–2012–23413 Filed 9–28–12; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0044; Docket 2012–0001; Sequence 8]

Public Buildings Service; Submission for OMB Review; Application/Permit for Use of Space in Public Buildings and Grounds, GSA Form 3453

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds. A notice was published in the **Federal Register** at 77 FR 38064, on June 26, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: October 31, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Handsfield, Public Buildings Service, at telephone (202) 208–2444, or via email to *Karen.handsfield@gsa.gov.*

ADDRESSES: Submit comments identified by *Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds,* by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds.

Instructions: Please submit comments only and cite Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

The general public uses GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, to request the use of public space in Federal buildings and on Federal grounds for cultural, educational, or recreational activities. A copy, sample, or description of any material or item proposed for distribution or display must also accompany this request.

B. Annual Reporting Burden

Respondents: 8,000.
Responses per Respondent: 1.
Hours per Response: 0.05.
Total Burden Hours: 400.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, in all correspondence.

Dated: September 20, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–24140 Filed 9–28–12; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Tracking of the Early Head Start Research and Evaluation Project (EHSREP) Sample.

OMB No.: 0970–0388.

Description: The Early Head Start Research and Evaluation Project (EHSREP) is a longitudinal study originally designed to meet the 1994 requirement for a national evaluation of the Early Head Start program. Child and family assessments were conducted when children were 14 months old, 24 months old, 36 months old, in the spring prior to kindergarten entry, and again in the spring of the sixth year of formal schooling (5th grade for most children). Today, children of the EHSREP are approximately 14–17 years of age (depending on their age at the time of enrollment in the study).

The Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS) is proposing to track the children/families who participated in the EHSREP until the children reach 18 years of age. The purpose of tracking these participants is to maintain up-to-date contact information for the children/families in the event that ACF determines that a future follow-up to the EHSREP will take place.

Respondents: Participants in the Early Head Start Research and Evaluation Project.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Tracking Interview	2,533	1	.25	633

Estimated Total Annual Burden Hours: 633.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Steven M. Hanmer,

Reports Clearance Officer.

[FR Doc. 2012–24032 Filed 9–28–12; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0976]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance: Emergency Use Authorization of Medical Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed extension of the collection of information related to emergency use authorizations by the Agency.

DATES: Submit either electronic or written comments on the collection of information by November 30, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *Ila.mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques,

when appropriate, and other forms of information technology.

Reporting and Recordkeeping for Emergency Use Authorization of Medical Products (OMB Control Number 0910–0595)—Extension

The guidance describes the Agency's general recommendations and procedures for issuance of emergency use authorizations (EUA) under section 564 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360bbb–3), which was amended by the Project BioShield Act of 2004 (Pub. L. 108–276). The FD&C Act permits the Commissioner of Food and Drugs to authorize the use of unapproved medical products or unapproved uses of approved medical products during an emergency declared under section 564 of the FD&C Act. The data to support issuance of an EUA must demonstrate that, based on the totality of the scientific evidence available to the Commissioner, including data from adequate and well-controlled clinical trials (if available), it is reasonable to believe that the product may be effective in diagnosing, treating, or preventing a serious or life-threatening disease or condition (21 U.S.C. 360bbb–3(c)). Although the exact type and amount of data needed to support an EUA may vary depending on the nature of the declared emergency and the nature of the candidate product, FDA recommends that a request for consideration for an EUA include scientific evidence evaluating the product's safety and effectiveness, including the adverse event profile for diagnosis, treatment, or prevention of the serious or life-threatening disease or condition, as well as data and other information on safety, effectiveness, risks and benefits, and (to the extent available) alternatives.

Under section 564 of the FD&C Act, the Commissioner may establish conditions on the authorization. Section 564(e) requires the Commissioner (to the extent practicable given the circumstances of the emergency) to establish certain conditions on an authorization that the Commissioner finds necessary or appropriate to protect the public health and permits the Commissioner to establish other conditions that she finds necessary or appropriate to protect the public health. Conditions authorized by section 564(e) of the FD&C Act include, for example: Requirements for information dissemination to health care providers or authorized dispensers and product recipients; adverse event monitoring and reporting; data collection and analysis; recordkeeping and records access; restrictions on product advertising, distribution, and administration; and limitations on good manufacturing practices requirements. Some conditions, the statute specifies, are mandatory to the extent practicable for authorizations of unapproved products and discretionary for authorizations of unapproved uses of approved products. Moreover, some conditions may apply to manufacturers of an EUA product, while other conditions may apply to any person who carries out any activity for which the authorization is issued. Section 564 of the FD&C Act also gives the Commissioner authority to establish other conditions on an authorization that she finds to be necessary or appropriate to protect the public health.

For purposes of estimating the annual burden of reporting (see table 1 of this document), FDA has established four categories of respondents as follows: (1) Those who file a request for FDA to issue an EUA or a substantive amendment to an EUA that has previously been issued, assuming that a requisite declaration under section 564 of the FD&C Act has been made and criteria for issuance have been met; (2) those who submit a request for FDA to review information/data (i.e., a pre-EUA package) for a candidate EUA product or a substantive amendment to an existing pre-EUA package for preparedness purposes; (3) manufacturers who carry out an activity related to an unapproved EUA product (e.g., administering product, disseminating information) who must report to FDA regarding such activity; and (4) public health authorities (e.g., State, local) who carry out an activity (e.g, administering product, disseminating information) related to an unapproved EUA product who must report to FDA regarding such activity.

In some cases, manufacturers directly submit EUA requests. Often a Federal Government entity (e.g., Center for Disease Control and Prevention, Department of Defense) requests that FDA issue an EUA and submits pre-EUA packages for FDA to review. In many of these cases, manufacturer respondents inform these requests and submissions, which are the activities that form the basis of the estimated reporting burdens. However, in some cases such as with antimicrobial products for which there are multiple generic manufacturers, the Federal Government is the sole respondent; manufacturers do not inform these requests or submissions. FDA estimates minimal burden when the Federal Government performs the relevant activities. In addition to variability based on whether there is an active manufacturer respondent, other factors also inject significant variability in estimates for annual reporting burdens. A second factor is the type of product. For example, FDA estimates greater burden for novel therapeutics than for certain unapproved uses of approved products. A third significant factor that injects variability is the type of submission. For example, FDA estimates greater burden for ''original'' EUA and pre-EUA submissions than for amendments to them, and FDA estimates minimal burden to issue an EUA when there is a previously reviewed pre-EUA package or investigational application. For purposes of estimating the reporting burden, FDA has calculated the anticipated burden on manufacturers based on the anticipated types of responses (i.e., estimated manufacturer input), types of product, and types of submission that comprise the described reporting activities.

For purposes of estimating the annual burden of recordkeeping, FDA has also calculated the anticipated burden on manufacturers and public health officials associated with administration of unapproved products authorized for emergency use, recognizing that the Federal Government will perform much of the recordkeeping related to administration of such products (see table 2 of this document).

No burden was attributed to reporting or recordkeeping for unapproved uses of approved products, since those products are already subject to approved collections of information (i.e., Adverse Experience Reporting for biological products is approved under 0910–0308 through November 30, 2014; Adverse Drug Experience Reporting is approved under 0910–0230 through August 31, 2015; adverse device experience reporting is approved under OMB control number 0910–0471 through May 31, 2014; investigational new drug (IND) application regulations are approved under 0910–0014 through April 30, 2015, and investigational device exemption (IDE) reporting is approved under OMB control number 0910–0078 through February 28, 2013. Any additional burden imposed by this proposed collection would be minimal. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests to Issue an EUA or a Substantive Amendment to an Existing EUA	9	1.33	12	33	396
FDA Review of a Pre-EUA Package or an Amendment Thereto	11	1.45	16	35	560
Manufacturers of an Unapproved EUA Product	5	1.6	8	2	16
Public Health Authorities; Unapproved EUA Product	30	3	90	2	180
Total					1,152

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of respondent	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Manufacturers of an Unapproved EUA Product	5	1.6	8	25	200
Public Health Authorities; Unapproved EUA Product	30	3	90	3	270
Total					470

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–24043 Filed 9–28–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0973]

Draft Guidance for Industry on Complicated Intra-Abdominal Infections: Developing Drugs for Treatment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Complicated Intra-Abdominal Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of complicated intra-abdominal infections (cIAIs). Specifically, this guidance addresses FDA's current thinking regarding the overall drug development program for the treatment of cIAIs, including clinical trial designs to support approval of drugs.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 31, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Complicated Intra-Abdominal Infections: Developing Drugs for Treatment.'' The purpose of this draft guidance is to assist sponsors and investigators in the development of drugs for the treatment of cIAIs.

Intra-abdominal infections are common in clinical practice and comprise a wide variety of clinical presentations and differing sources of infection. The infections can be diffuse across the entire peritoneal cavity or retroperitoneal spaces, or can be localized with one or more abscesses surrounding diseased or perforated viscera. A wide variety of bacterial pathogens are responsible for cIAIs, including Gram-negative aerobic bacteria, Gram-positive bacteria, and anaerobic bacteria, and there are also mixed infections.

This draft guidance includes recommendations for an efficacy endpoint and a non-inferiority trial design. The efficacy endpoint of clinical success represents the desired outcome of an antibacterial treatment of a cIAI and has been used in previously conducted trials of treatment for cIAI. Clinical success is defined as the complete resolution of the baseline signs and symptoms attributable to cIAI at a fixed time point approximately 28 days following randomization. The draft guidance provides scientific support for a noninferiority margin based on the results of previously conducted clinical trials with various effective antibiotics. The draft guidance also provides a discussion about patients with unmet need who have an infection caused by bacterial pathogens that show resistance to most antibacterial drugs on in vitro susceptibility testing.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that 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 parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively, and the collections of information referred to in the guidance for clinical trial sponsors ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' have been approved under 0910–0581.

III. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: September 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–24036 Filed 9–28–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0419]

Guidance for Industry on Acute Bacterial Exacerbations of Chronic Bronchitis in Patients With Chronic Obstructive Pulmonary Disease: Developing Antimicrobial Drugs for Treatment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Acute Bacterial Exacerbations of Chronic Bronchitis in Patients With Chronic Obstructive Pulmonary Disease: Developing Antimicrobial Drugs for Treatment.'' This guidance addresses FDA's current thinking regarding the overall development program and clinical trial designs for drugs to support an indication for treatment of acute bacterial exacerbations of chronic bronchitis in patients with chronic obstructive pulmonary disease (ABECB–COPD), and finalizes the revised draft guidance issued on August 22, 2008.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Acute Bacterial Exacerbations of Chronic Bronchitis in Patients With Chronic Obstructive Pulmonary Disease: Developing Antimicrobial Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the overall clinical development program of drugs to support an indication for the treatment of ABECB–COPD. This guidance finalizes the revised draft guidance published on August 22, 2008 (73 FR 49684), which in turn revised the draft guidance for industry entitled ''Acute Bacterial Exacerbations of Chronic Bronchitis—Developing Antimicrobial Drugs for Treatment'' published in 1998. Changes from the revised draft guidance are incorporated into the appropriate sections of the guidance and were based on comments submitted to the docket for the draft guidance. In addition, developments in scientific and medical information and technology in the treatment of ABECB–COPD are reflected in this guidance. This guidance fulfills the requirement set forth in the Food and Drug Administration Amendments Act of 2007 that directed FDA to update the ABECB–COPD guidance within 5 years.[1] This guidance also responds to the requirement set forth in the Food and Drug Administration Safety and Innovation Act of 2012 that FDA review guidances for the conduct of clinical trials with respect to antibacterial and antifungal drugs and revise such guidances as appropriate.[2]

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on developing drugs for the treatment of ABECB–COPD. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under 0910–0014; the collections of information in 21 CFR

[1] See Title IX, section 911, of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85).

[2] See Title VIII, section 804(a)(1), of the Food and Drug Administration Safety and Innovation Act of 2012 (Pub. L. 112–144).

part 314 have been approved under 0910–0001; and the collections of information referred to in the guidance for clinical trial sponsors entitled ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' have been approved under 0910–0581.

III. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: September 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–24035 Filed 9–28–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0972]

Clinical Development Programs for Disease-Modifying Agents for Peripheral Neuropathy; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is announcing a scientific public workshop to solicit information on a variety of issues related to the clinical development of disease-modifying agents for the treatment of peripheral neuropathy. Discussion will focus on possible therapeutic targets for these agents, the types of painful peripheral neuropathies amenable to treatment with disease-modifying agents, and clinical trial design. FDA intends to take this information into account in developing FDA guidance on clinical development programs for disease-modifying products for the management of peripheral neuropathy.

Date and Time: The public workshop will be held on February 11, 2013, from 8:30 a.m. to 5 p.m. and February 12, 2013, from 8:30 a.m. to 2 p.m.

Location: The public workshop will be held at FDA White Oak Campus, Building 31, The Great Room (Rm. 1503),White Oak Conference Center, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002. Entrance for the consultation meeting's participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm*

Contacts:

Randi Clark, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4287, *Randi.Clark@fda.hhs.gov,*

or

Allison Meyer, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1258, *Allison.Meyer@fda.hhs.gov.*

Registration to Attend the Workshop and Requests to Participate in Open Public Hearing: As part of the public workshop, an open public hearing will be held between 11 a.m. and 12 p.m. on February 11, 2013. If you wish to attend the public workshop or provide oral comments during the open public hearing, please email your registration to *CDER_Neuropathy_Workshop@fda.hhs.gov* by February 1, 2013. Those without email access may register by contacting one of the persons listed in the *Contacts* section of this document. Please provide complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number.

For those interested in providing oral comments for the open public hearing, please also provide a short abstract of your remarks by February 1, 2013. We will try to accommodate all persons who wish to speak; however, the duration of each speaker's comments during this open public hearing may be limited by time constraints.

Registration is free and will be on a first-come, first-served basis. Early registration is recommended because seating is limited. FDA may limit the number of participants from each organization as well as the total number of participants based on space limitations. Registrants will receive confirmation once they have been accepted for the workshop. Onsite registration on the day of the meeting will be based on space availability. If registration reaches maximum capacity, FDA will post a notice closing meeting registration for the workshop at *http://www.fda.gov/Drugs/NewsEvents/ucm310416.htm.*

If you need special accommodations because of a disability, please contact Randi Clark or Allison Meyer (see *Contacts*) at least 7 days in advance of the public workshop.

Comments: Submit either electronic or written comments by March 11, 2013. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA is announcing this public workshop to further the understanding of the development of disease-modifying agents for the treatment of painful peripheral neuropathies. Discussion will focus on possible therapeutic targets for these agents, the types of painful peripheral neuropathies amenable to treatment with disease-modifying agents, and clinical trial design.

FDA will explore the following topics during this public workshop:

1. Pharmacodynamic mechanisms and pharmacogenetic/pharmacogenomic targets of therapeutic agents intended to prevent, slow, modify, arrest, or reverse the course of disease for peripheral neuropathies.

2. Periperal neuropathy patient populations and study entry criteria for clinical trials designed to evaluate disease-modifying effects of therapeutic agents.

3. Clinically relevant endpoints for trials evaluating therapeutic agents intended to prevent, slow, modify, arrest, or reverse the course of these diseases.

4. Study duration, overall study design, and analysis of clinical trials needed to demonstrate a treatment effect on disease modification for peripheral neuropathy.

FDA will post the agenda and additional workshop background material approximately 5 days before the workshop at *http://www.fda.gov/Drugs/NewsEvents/ucm310416.htm.*

II. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated: September 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–24037 Filed 9–28–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Single Source Program Expansion Supplement Award to Area Health Education Centers (AHEC) Program Grantee; Exception to Competition

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Exception to Competition—Single Source Program Expansion Supplement Award to Area Health Education Centers (AHEC) Program Grantee—University of Guam School of Nursing.

SUMMARY: The Health Resources and Services Administration (HRSA)'s Bureau of Health Professions is issuing a non-competitive single source program expansion supplement award to the University of Guam School of Nursing, an Area Health Education Center (AHEC) Program grantee, to coordinate the U.S. Affiliated Pacific Islands (USAPI) *Nursing Program Capacity Strengthening and Quality Improvement Initiative.* In fiscal year (FY) 2012, $203,703 will be available to fund this award. The Guam/Micronesia AHEC is uniquely qualified and has the capacity, capability, expertise, experience, and infrastructure to expeditiously, effectively, and efficiently implement the project within their existing educational programming. The University of Guam School of Nursing is the only nationally accredited baccalaureate nursing education program in the Pacific. Its focus is on health careers training and development, as well as improving the health careers pipeline in the region.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Guam/Micronesia AHEC—University of Guam School of Nursing.

Amount of Award: $203,703.

Authority: Section 751 of the Public Health Service Act (42 U.S.C. 294a), as amended by

Sec. 5403 of the Patient Protection and Affordable Care Act, Public Law 111–148.

CFDA Number: 93.824.

Project Period: September 1, 2012, through August 31, 2013.

Justification: The Guam/Micronesia AHEC—University of Guam School of Nursing is uniquely qualified to carry out the USAPI *Nursing Program Capacity Strengthening and Quality Improvement Initiative Project* because of their significant role in improving the public health capacity and infrastructure in the region.

The University of Guam School of Nursing is the only nationally accredited baccalaureate nursing education program in the Pacific. The Guam/Micronesia AHEC grantee is the University of Guam School of Nursing, whose focus is health career training and development, as well as improving the health careers pipeline in the region. The activities that will be carried out through this initiative will serve as building blocks in a more comprehensive strategic effort to strengthen nursing education, and, thus the nursing workforce in the USAPI jurisdictions. Funding this supplemental award in FY 2012 will enable the grantee to implement the activities identified in this initiative, targeted on nursing program director development, student assessment and preparation, program resource purchases, and faculty development.

FOR FURTHER INFORMATION CONTACT: Meseret Bezuneh, Project Officer, Health Resources and Services Administration, Division of Public Health and Interdisciplinary Education, 5600 Fishers Lane, Room 9C–05, Rockville, Maryland 20857, Phone: (301) 594–4149, Email: *mbezuneh@hrsa.gov.*

Dated: September 25, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–24102 Filed 9–28–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Single Source Program Expansion Supplement Award to Nurse Education, Practice, Quality and Retention (NEPQR) Program Grantee; Exception to Competition

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of Exception to Competition—Single Source Program Expansion Supplement Award to Nurse Education, Practice, Quality and Retention (NEPQR) Program Grantee—Texas A&M University Corpus Christi (TAMUCC), College of Nursing and Health Science (CONHS).

SUMMARY: The Health Resources and Services Administration (HRSA)'s Bureau of Health Professions is issuing a non-competitive single source program expansion supplement award to the NEPQR Program grantee TAMUCC–CONHS to build upon their feasibility study, *Transitioning Enlisted Health Care Training into Academic Credit for Nursing Education Programs,* and undertake a dissemination program to advance the goal of aligning enlisted health care training with civilian nursing program requirements. In fiscal year (FY) 2012, $178,374 will be available to fund this award. TAMUCC–CONHS is uniquely qualified and has the capacity, capability, expertise, experience, and infrastructure to expeditiously, effectively, and efficiently implement the project within their existing educational programming. During the previous year, TAMUCC–CONHS has gained in-depth insight into the full range academic, financial, and socio-economic barriers that interfere with successful transition from military to civilian careers, and how these barriers are compounded by the burden of navigating the military-academic labyrinth. Thus they are well-positioned to bridge the gap between health care training command programs and academic programs in schools of nursing work.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Texas A&M University Corpus Christi

(TAMUCC), College of Nursing and Health Science (CONHS).

Amount of Award: $178,374.

Authority: Section 831 and 831a under Title VIII of the Public Health Service Act (42 U.S.C. 296p and 42 U.S.C. 296 p–1), as amended by Sec.5309 of the Patient Protection and Affordable Care Act, Public Law 111–148.

CFDA Number: 93.359.

Project Period: September 1, 2012, through August 31, 2013.

Justification: In FY 2010, HRSA competitively funded the eLine Military (ELM) program at TAMUCC-CONHS, an online nursing education program offered to residents of Texas who are members of the military or veterans with previous medical experience. One of the critical challenges the ELM program faced concerned granting college credit for health care training and experiences provided in training command programs. This training lacked the structure and rigor foundational to academic courses, creating a significant impediment to granting academic credit for these experiences. In FY 2011, TAMUCC-CONHS received a supplemental award to develop strategies to surmount the barriers to gaining nursing academic credit for military training and to develop recommendations for their implementation. This supplement will build upon the feasibility study and undertake a dissemination program to advance the goal of aligning enlisted health care training with civilian nursing program requirements. This supplement directly supports the scope of the ELM program/parent grant and has significant implications for returning veterans seeking academic credit for enlisted health care training at CONHS and nursing schools across the country. Identifying the barriers to efficient enrollment and pursuit of nursing education by veterans and developing a plan for surmounting these barriers will provide schools of nursing with the tools needed to develop effective academic pathways for veterans, bring nursing education opportunities to a new and largely untapped cohort of persons with interest in and training in health care occupations, open up campuses to veterans in engaging and supporting ways, spur interest in and enrollment in nursing programs by veterans, and increase diversity in the nursing workforce. A stakeholders meeting and dissemination plan will be designed to bring the study findings to the broadest possible audience.

FOR FURTHER INFORMATION CONTACT: Julie Sochalski, Health Resources and Services Administration, Division of Nursing, 5600 Fishers Lane, Room 9–61, Rockville, Maryland 20857, or email at *jsochalski@hrsa.gov.*

Dated: September 25, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–24101 Filed 9–28–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Single Source Award; Exception to Competition

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Exception to Competition—Single Source Award to Texas Area Health Education Centers (AHEC) East—University of Texas Medical Branch.

SUMMARY: The Health Resources and Services Administration (HRSA)'s Bureau of Health Professions is issuing a non-competitive single source award to the Texas AHEC East—University of Texas Medical Branch, an AHEC program grantee, to add a Behavioral Health component to a Community Health Worker (CHW) curriculum, pilot and evaluate it in primary care settings, and disseminate the curriculum. This project shall be titled: Community Health Worker (CHW) Behavioral Health Primary Care Integration Project. In fiscal year (FY) 2012, $486,394 will be available to fully fund this cooperative agreement with a single project/budget period of four years. The Texas AHEC East is uniquely qualified and has the capacity, capability, expertise, experience, and infrastructure to expeditiously, effectively, and efficiently implement the CHW Behavioral Health Primary Care Integration Project within their existing educational programming, and disseminate the tested model nationally. CHWs play an important role in increasing access to services for vulnerable populations, and increasing support for direct service workers, including community health workers, which is a priority for the Department of Health and Human Services as well as the Health Resources and Services Administration.

SUPPLEMENTARY INFORMATION: *Intended Recipient of the Award:* Texas AHEC East—University of Texas Medical Branch.

Amount of Award: $486,394.

Authority: Section 751 of the Public Health Service Act (42 USC 294a), as amended by Section 5403 of the Patient Protection and Affordable Care Act, Public Law 111–148.

CFDA Number: 93.107.

Project Period: September 30, 2012, through September 29, 2016.

Justification: The Texas AHEC East is uniquely qualified to carry out the CHW Behavioral Health Primary Care Integration Project because of their demonstrated expertise in the training of CHWs and CHW instructors for certification, and because of their proven track record as pioneers of the CHW apprenticeship model.

The Texas AHEC East has an existing infrastructure with staff expertise, and a proven track record in curriculum design and training to develop a behavioral health curriculum that can augment the existing CHW training program, as well as strong partnerships with community-based primary care providers to implement, pilot, and evaluate the curriculum in primary care settings.

Furthermore, the proposed Project Director is recognized for her work and expertise in CHW training, serves as the Chair of the National AHEC Organization's Community Health Worker workgroup, and is a member of the American Public Health Association's Community Health Worker section. She has presented at national meetings and at several states' CHW meetings on designing CHW training curriculum, as well as the CHW apprenticeship-training model. As a result of these collaborations and recognitions, significant opportunities exist for national dissemination and replication of this project. Providing the additional funding to an existing grantee (Texas AHEC East—University of Texas Medical Branch) also has benefits for program evaluation purposes, since AHEC grantees have existing evaluation requirements with which they comply. This award aligns with the current AHEC budget period cycle, resulting in administrative savings over a competitive grant making process.

FOR FURTHER INFORMATION CONTACT: Meseret Bezuneh, Project Officer, Health Resources and Services Administration, Division of Public Health and Interdisciplinary Education, 5600 Fishers Lane, Room 9C–05, Rockville, Maryland 20857; Phone: (301) 594–4149, Email: *mbezuneh@hrsa.gov.*

Dated: September 25, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–24103 Filed 9–28–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; ELSI CEERS RFA (SEP).

Date: November 13–14, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Linden Oak, Bethesda, MD 20852.

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov*.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Genomic Medicine Coordinating Center' RFA (RFA–HG–12–007).

Date: November 15, 2012.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 5635 Fishers Lane, 3rd Floor Conferece Room, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 25, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24010 Filed 9–28–12; 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: Risk, Prevention, and Health Behavior.

Date: October 16–17, 2012.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Synthetic and Biological Chemistry A.

Date: October 22, 2012.

Time: 1:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: William A. Greenberg, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry A Study Section.

Date: October 22, 2012.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Glial Biology and Neurodegeneration.

Date: October 23, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4811, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@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: September 24, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24015 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.

Date: October 11, 2012.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: September 25, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24014 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NCATS—SEPA Meeting.

Date: October 10–11, 2012.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Carol Lambert, Ph.D., Scientific Review Officer, Office of Grants Management and Review, National Center for Advancing Translational Sciences, NIH, 6701 Democracy Blvd., Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Div. of Comparative Medicine Peer Review Meeting; Office of Research Infrastructure Programs; Div. of Program Coordination, Planning, and Strategic Initiatives; Office of the Director.

Date: October 22, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management and Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Blvd., Room 1082, Bethesda, MD 20892–4874, 301–435–0811, *hildsa@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; LAM Training Programs—Div. of Comp. Med. Peer Review Meeting; Office of Research Infrastructure Programs; Div. of Program Coordination, Planning, and Strategic Initiatives; OD.

Date: October 23, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management and Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Blvd., Room 1082, Bethesda, MD 20892–4874, 301–435–0811, *hildsa@mail.nih.gov.*

Dated: September 25, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24013 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications 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 Cancer Institute Special Emphasis Panel; Cancer Biology-1.

Date: November 7–8, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd., Bethesda, MD 20852.

Contact Person: Zhiqiang Zou, MD, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8055A, MSC 8329, Bethesda, MD 20892, 301–402–9415, *zouzhiq@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Biology-2.

Date: November 7–8, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Suite 703, Room 7073, Bethesda, MD 20892, 301–435–1822, *choe@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Community Clinical Oncology Program Groups (CCOP) (U10).

Date: November 7, 2012.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8055B, Bethesda, MD 20892–8329, 301–594–1215, *schwarel@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Minority-Based Community Clinical Oncology Program Groups (MB–CCOP) (U10).

Date: November 7, 2012.

Time: 2:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8055B, Bethesda, MD 20892–8329, 301–594–1215, *schwarel@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Exploratory/Developmental Research Programs in Cancer Etiology and Genetics.

Date: November 8–9, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree by Hilton Bethesda-Washington DC, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8133, Bethesda, MD 20892–8328, 301–451–4757, *david.ransom@nih.gov.*

Information is also available on the Institute's/Center's home page: *http://*

deainfo.nci.nih.gov/advisory/sep/sep.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 24, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24012 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Subcommittee J—Career Development, November 1, 2012, 7:30 a.m. to November 2, 2012, 12:00 p.m., Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 which was published in the **Federal Register** on September 11, 2012, 77 FR 55854.

This notice is being amended to change the ending time and date from 12 p.m. November 2, 2012 to 6 p.m. November 1, 2012. The meeting is closed to the public.

Dated: September 24, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24011 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, And Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Engine for Fast Execution of Clinical Trials.

Date: October 19, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Excellence in Hemoglobinopathies Research.

Date: October 22–23, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Resource-Related Research Project for Stem Cells and Cardiomyopathy.

Date: October 22, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Rm. 7202, Bethesda, MD 20892, 301–435–0297, *nagelinmh2@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 24, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24009 Filed 9–28–12; 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; PAR 12–017: Shared Instrumentation: Data Analysis and Storage.

Date: October 24–25, 2012.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific, Review National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806 Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.

Date: October 25, 2012.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurodifferentiation, Plasticity, Regeneration and Rhythmicity Study Section.

Date: October 25–26, 2012.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel;, Review of Immunology AREA Grant Applications.
Date: October 25, 2012.
Time: 4:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.
Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Clinical Neurophysiology, Devices, Neuroprosthetics, and Biosensors.
Date: October 29–30, 2012.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Keith Crutcher, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1278, *crutcherka@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biobehavioral and Behavioral Processes.
Date: October 29–30, 2012.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.
Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Diabetes, Obesity and Reproductive Sciences.
Date: October 29–30, 2012.
Time: 10:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.
Date: October 29, 2012.
Time: 11:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Model Systems for Fragile X Pre-Mutation and Primary Ovarian Insufficiency.
Date: October 29, 2012.
Time: 1:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.
Date: October 29, 2012.
Time: 4:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892.
Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Resource Center: Biomedical Glycomics.
Date: October 29–31, 2012.
Time: 7:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 197 East Broad Street, Athens, GA 30603.
Contact Person: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@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: September 26, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24072 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee C.
Date: October 26, 2012.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room A, Bethesda, MD 20892.
Contact Person: Mona R. Trempe, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An12, Bethesda, MD 20892, 301–594–3998, *trempemo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862,Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 26, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24071 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; COBRE PHASE III.

Date: October 24–25, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Courtyard 5520 Wisconsin Avenue Chevy Chase, MD 20815.

Contact Person: Lisa A. Newman, SCD Scientific Review Officer Office of Scientific Review National Institute of General Medical Sciences National Institutes of Health 45 Center Drive, Room 3As19K Bethesda, MD 20892–4874, 301–594–2704, *newmanla2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 26, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24070 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS Small Grant Program for New Investigators (R03).

Date: October 24, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Eric H. Brown, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Room 824, MSC 4872, Bethesda, MD 20892, (301) 594–4955, *browneri@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Mentored Career Development, Institutional Research Training & Pathways to Independence Applications.

Date: October 25, 2012.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles H. Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Room 816, MSC 4872, Bethesda, MD 20892, (301) 594–4952, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24069 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grants (R34) and Implementation Grants and Cooperative Agreements (R01, U01).

Date: October 5, 2012.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, (301) 402–8399, *rosenthalla@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 26, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24068 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Conference Grants.

Date: October 18–19, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Martha F. Matocha, PhD, Scientific Review Officer, Office of Grants, Management and Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Blvd., Dem. 1, Room 1070, Msc 4874, Bethesda, MD 20892–4874, 240–271–4890, *matocham@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: September 26, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24067 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Chemo/Dietary Prevention Study Section.

Date: October 15–16, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Park Hotel at the Anaheim Resort, 1855 South Harbor Boulevard, Anaheim, CA 92802.

Contact Person: Sally A. Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 408–9724, *mulherns@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.

(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: September 26, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24066 Filed 9–28–12; 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; Academic Research Enhancement Awards.

Date: October 25, 2012.

Time: 3:00 p.m. to 5:30 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: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Drug Addiction.

Date: October 30–31, 2012.

Time: 8:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motor Systems and Behavior.

Date: October 30, 2012.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nicholas Gaiano, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Pulmonary Disease.

Date: October 30–31, 2012.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR09–221: Innovations In Biomedical Computational Science and Technology Initiative.

Date: October 30, 2012.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Keith Crutcher, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1278, *crutcherka@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR12–054: Advanced Neural Prosthetics Research and Development.

Date: October 30, 2012.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Keith Crutcher, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1278, *crutcherka@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: September 26, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24065 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders B.

Date: October 25–26, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, *neuhuber@ninds.nih.gov*.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–2 Subcommittee.

Date: November 5–6, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: November 7–8, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue SW., Washington, DC 20024.

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635, *Rc218u@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C.

Date: November 8–9, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 25, 2012.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24002 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; SBIR Phase IIB Bridge Awards.

Date: October 24, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 9100/9104, Bethesda, MD 20892.

Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 25, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24007 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

Date: October 22–23, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for

Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 25, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24006 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed 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: Allergy, Immunology, and Transplantation Research Committee.

Date: October 17, 2012.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Room #3136, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Zhuqing Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–9523, *zhuqing.li@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Targeting Inflammation and Immune Activations in HIV Disease.

Date: October 22–23, 2012.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *qvos@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24005 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasisn Panel; Partnerships for Biodefense—Bacterial Therapeutics (2).

Date: October 3, 2012.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–594–1009, *fdesilva@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Partnerships for Development of Vaccine Technologies.

Date: October 24–25, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susana Mendez, Ph.D., DVM, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *mendezs@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24004 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Program Project on Pancreatitis.

Date: November 12, 2012.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special, Emphasis Panel; KUH–K–T Member Conflict Telephone SEP.

Date: November 14, 2012.

Time: 10:30 a.m. to 12:00 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: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 24, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24003 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.

Date: October 18, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Weiqun Li, MD, Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste. 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: September 25, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24001 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Terahertz Scanning Systems for Cancer Pathology

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is contemplating the grant of a worldwide exclusive evaluation option license, to practice the inventions embodied in:

HHS REF. NO. E–243–2010/0 ''TETRAHERTZ SPATIAL LIGHT MODULATOR FOR COMPUTER-CONTROLLED ADAPTIVE NEAR FIELD IMAGING OF BIOLOGICAL SYSTEMS''

Patent application No.	Territory	Filing date	Status
61/425,007	US	December 20, 2010	Expired.
PCT/US2011/65734	Int'l	December 19, 2011	Pending.

to Transformatix Technologies, Inc., a company incorporated under the laws of the State of California having its headquarters in Davis, California. The United States of America is the assignee of the rights of the above inventions. The contemplated exclusive license may be granted in a field of use limited to terahertz scanning systems for cancer pathology. Upon the expiration or termination of the exclusive evaluation option license, Transformatix will have the right to execute an exclusive patent commercialization license which will supersede and replace the exclusive evaluation option license with no greater field of use and territory than granted in the evaluation license.

DATES: Only written comments and/or applications for a license received by the NIH Office of Technology Transfer on or before October 16, 2012 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Michael A. Shmilovich, Esq., CLP, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5019; Facsimile: (301) 402–0220; Email: *shmilovm@mail.nih.gov.* A signed confidentiality nondisclosure agreement will be required to receive copies of any patent applications that have not been published by the United States Patent and Trademark Office or the World Intellectual Property Organization.

SUPPLEMENTARY INFORMATION: The patent applications (including any patents issuing therefrom or claiming priority thereto) intended for licensure describe and claim a terahertz (THz) imaging system that may overcome the limitations of existing systems by using the near-field effect at THz frequencies to provide micron-scale spatial resolution. Additionally, the THz imaging system describes a sensor head geometry that eliminates the requirement to mechanically scan samples, and also allows automatic adjustment of image resolution and transmitted power. The claimed system has no moving components and is therefore potentially suitable for medical applications such as cancer diagnosis of living subjects in hospital settings. In one application, such as ''one-cut'' surgery, the compact sensor head of the system may have the capability of distinguishing healthy cells from cancerous cells with micron-scale spatial resolution by identifying a skin cancer margin without the need for laboratory work or the possibility of additional surgery.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NIH receives written evidence and argument that

establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 25, 2012.

Richard Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–24022 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service 2012 Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service 2012 Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314 (c) (4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Colleen Barros, Chair; Courtney Billet; John Czajkowski; Michael Gottesman; Sally Rockey; Mona Rowe; Lawrence Tabak.

For further information about the NIH Performance Review Board, contact the Office of Human Resources, Workforce Relations Division, National Institutes of Health, Building 31, Room B3C07, Bethesda, Maryland 20892, telephone 301–402–9203 (not a toll-free number).

Dated: September 25, 2012.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2012–24150 Filed 9–28–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB–2012–0004]

RIN 1653–ZA01

Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice informs the public of the extension of an earlier notice, which suspended certain requirements for F–1 nonimmigrant students whose country of citizenship is Haiti and who are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. This notice extends the effective date of that notice.

DATES: This notice is effective October 1, 2012 and will remain in effect through July 22, 2014.

FOR FURTHER INFORMATION CONTACT: Louis Farrell, Director, Student and Exchange Visitor Program; MS 5600, U.S. Immigration and Customs Enforcement; 500 12th Street SW., Washington, DC 20536–5600; (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary of Homeland Security is exercising her authority under 8 CFR 214.2(f)(9) to extend the suspension of the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Haiti and who are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. *See* 75 FR 56120, September 15, 2010. The original notice was effective from September 15, 2010 until July 22, 2011, with a subsequent notice providing for an 18-month extension from July 22, 2011 until January 22, 2013. *See* 76 FR 28997, May 19, 2011. Effective with this publication, suspension of the requirements is extended for an additional 18 months, through July 22, 2014.

F–1 nonimmigrant students granted employment authorization through the notice will continue to be deemed to be engaged in a ''full course of study'' for the duration of their employment authorization, provided they satisfy the minimum course load requirement described in 75 FR 56120. *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered under this action?

This notice applies exclusively to F–1 nonimmigrant students whose country of citizenship is Haiti and who were lawfully present in the United States in F–1 nonimmigrant status on January 12, 2010 under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), and (1) are enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F–1 students, (2) are currently maintaining F–1 status, and (3) are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti.

This notice applies both to undergraduate and graduate students, as well as elementary school, middle school, and high school students. The notice, however, applies differently to elementary school, middle school, and high school students (see the discussion published in 75 FR 56121 in the question, ''Does this notice apply to elementary school, middle school, and high school students in F–1 status?'').

F–1 students covered by this notice who transfer to other academic institutions that are SEVP-certified for enrollment of F–1 students remain eligible for the relief provided by means of this notice.

Why is DHS taking this action?

The Department of Homeland Security (DHS) took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Haiti and experienced severe economic hardship as a result of the January 12, 2010 earthquake. *See* 75 FR 56120. It enabled these F–1 students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course load, while continuing to maintain their F–1 student status.

Haiti continues to struggle, with many people still displaced as a result of the earthquake. As Haiti rebuilds, the country continues to experience significant difficulties in recovering. F–1 nonimmigrant students whose country of citizenship is Haiti may depend on

money from relatives in Haiti who are themselves continuing to recover from the earthquake.

The United States is committed to continuing to assist the people of Haiti. DHS is therefore extending this employment authorization for F–1 nonimmigrant students whose country of citizenship is Haiti and who are continuing to experience severe economic hardship as a result of the earthquake.

How do I apply for an employment authorization under the circumstances of this notice?

F–1 nonimmigrant students whose country of citizenship is Haiti who were lawfully present in the United States on January 12, 2010 and are experiencing severe economic hardship as a result of the earthquake may apply for employment authorization under the guidelines described in 75 FR 56120. This notice extends the time period during which such F–1 students may seek employment authorization due to the earthquake. It does not impose any new or additional policies or procedures beyond those listed in the original notice. All interested F–1 students should follow the instructions listed in the original notice.

Janet Napolitano,

Secretary.

[FR Doc. 2012–23825 Filed 9–28–12; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

[CIS No. 2524–12; DHS Docket No. USCIS–2012–0009]

RIN 1615–ZB14

Extension of the Designation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is extending the designation of Haiti for Temporary Protected Status (TPS) for 18 months from January 23, 2013 through July 22, 2014. The extension allows currently eligible TPS beneficiaries to retain TPS through July 22, 2014. The Secretary has determined that an extension is warranted because the conditions in Haiti that prompted the initial 2010 TPS designation and the 2011 redesignation continue to be met. There continue to be extraordinary and temporary conditions in Haiti resulting from the devastating effects of the January 2010 earthquake that prevent Haitians from returning to their country in safety. Permitting eligible Haitians to remain temporarily in the United States is not contrary to the national interest of the United States.

This notice also sets forth procedures necessary for nationals of Haiti (or aliens having no nationality who last habitually resided in Haiti) to re-register for TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who have previously registered for TPS under the designation of Haiti and whose applications have been granted. Certain nationals of Haiti (or aliens having no nationality who last habitually resided in Haiti) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions, if they meet: (1) At least one of the late initial filing criteria and (2) all TPS eligibility criteria (including continuous residence in the United States since January 12, 2011, and continuous physical presence in the United States since July 23, 2011).

USCIS will issue new EADs with a July 22, 2014 expiration date to eligible Haitian TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, the Department of Homeland Security (DHS) recognizes that all re-registrants may not receive new EADs until after their current EADs expire on January 22, 2013. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of Haiti for 6 months, from January 22, 2013 through July 22, 2013, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on the Employment Eligibility Verification (Form I–9) and E-Verify processes.

DATES: The 18-month extension of the TPS designation of Haiti is effective January 23, 2013, and will remain in effect through July 22, 2014. The 60-day re-registration period begins October 1, 2012 and will remain in effect until November 30, 2012.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility (including eligibility for late initial registration), please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* The general TPS Web page has detailed information on filing and eligibility requirements. You can find specific information about this extension of Haiti for TPS by selecting ''TPS Designated Country: Haiti'' from the menu on the left of the TPS Web page. You can obtain information in French or Creole by selecting the language from the menu on the right from the TPS Haiti-specific Web page.
- You can also contact the TPS Operations Program Manager at the Status and Family Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquiries.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov*, or call the USCIS National Customer Service Center at 1–800–375–5283 (TTY 1–800–767–1833). Service is available in English and Spanish only.
- Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
Government—U.S. Government
HNP—Haitian National Police
IDP—Internally Displaced Persons
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
PAHO—Pan American Health Organization
Secretary—Secretary of Homeland Security
SAVE—USCIS Systematic Alien Verification for Entitlements Program
TPS—Temporary Protected Status
UN—United Nations
USCIS—U.S. Citizenship and Immigration Services

What is Temporary Protected Status (TPS)?

- TPS is an immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain

work authorization, so long as they continue to meet the requirements of TPS status.

- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not lead to permanent resident status.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other lawfully obtained immigration status they received while registered for TPS.

When was Haiti designated for TPS?

On January 22, 2010, the Secretary designated Haiti for TPS based on extraordinary and temporary conditions within the country, specifically the effects of the 7.0-magnitude earthquake that occurred January 12, 2010. *See* 75 FR 3476. In 2011, the Secretary extended Haiti's designation and redesignated Haiti for TPS for 18 months through January 22, 2013. *See* 76 FR 29000 (May 19, 2011). This announcement is the second extension of TPS for Haiti since the original designation in January 2010.

What authority does the Secretary have to extend the designation of Haiti for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* section 244(a)(1)(A) of the INA, 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or in the Secretary's discretion for 12 or 18 months). *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* section 244(b)(3)(B) of the INA, 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for Haiti for TPS through July 22, 2014?

Over the past year, the Department of Homeland Security (DHS) and the Department of State (DOS) have continued to review conditions in Haiti. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because the extraordinary and temporary conditions that prompted the original January 2010 TPS designation and the July 2011 extension and redesignation persist.

The January 12, 2010 earthquake that struck Haiti caused extensive damage to infrastructure, public health, agriculture, transportation, and educational facilities. A coordinated international effort and strong partnership with the Haitian people resulted in emergency response activities that saved lives and laid a foundation for Haiti to rebuild. However, many of the conditions prompting the original January 2010 TPS designation and the July 2011 extension and redesignation persist.

Haitian government estimates of the death toll caused by the earthquake have ranged from 230,000 to over 300,000 people. The Government of Haiti further estimated that more than 1,000,000 people were displaced within the Port-au-Prince metropolitan area. Destruction from the earthquake rose to catastrophic levels due to Haiti's already weak infrastructure, as the government struggled to provide minimum basic services even prior to the earthquake.

Security in Haiti remains a concern as progress toward a return to country conditions before the January 2010 earthquake has been slow. The earthquake killed 77 officers of the Haitian National Police (HNP), injured 253 officers, and destroyed or severely damaged 45 HNP stations and substations. The earthquake destroyed 13 of the 15 ministry buildings and 180 other government buildings, including the National Palace. In addition to devastating the center of government, damage from the earthquake paralyzed the economic center as well. Some 30,000 commercial buildings suffered severe damage, collapsed, or were expected to be demolished. Political instability, including the resignation of Prime Minister Conille, had also hampered the reconstruction process. Without the Government of Haiti's authority to fully engage in development decisions, the reconstruction process was at a standstill. However, a new Prime Minister and cabinet are now in place.

Following the January 2010 earthquake, more than 1,000,000 Haitians were left homeless and living in temporary camps. In early 2012, approximately 500,000 people continued to live in internally displaced persons (IDP) camps, which are vulnerable to flooding, disease, crime, and gender-based violence. Alternative housing options are lacking. Severely damaged infrastructure remains unrepaired, disrupting the informal businesses on which the economy is based. Rubble continues to impede recovery efforts. By some estimates, the amount of debris in Port-au-Prince alone after the earthquake was about 33,000,000 cubic yards. The scale of the damage, level of displacement, low funding, and the lack of a government housing reconstruction policy have all impeded reconstruction efforts.

Poor camp conditions were exacerbated by steady rains in October 2010, which led to flooding and contributed to a deadly cholera outbreak. According to the Haitian Ministry of Health, as of May 1, 2012, there have been an estimated 532,192 cholera cases and 7,060 associated deaths since October 2010. The Pan American Health Organization (PAHO) warns that 200,000 to 250,000 people could contract the disease during the April to November 2012 rainy season.

Food security continues to be a problem 2 years after the earthquake, although much progress has been made. The quality of drinking water in the camps has remained stable since January 2012 according to the National Directorate for Potable Water and Sanitation of the Republic of Haiti. A survey conducted at 433 sites showed that roughly 63 percent of the camp population is drinking chlorinated water. Despite this promising number, camp sanitation remains a concern.

Children are a particularly vulnerable population in Haiti. Of the 661,000 displaced persons outside of Port-au-Prince six months after the quake, roughly half were estimated to be children. The Ministry of Education in Haiti estimated that 80 percent of the schools west of the capital were destroyed or severely damaged in the earthquake. The Ministry further estimated that some 35 to 40 percent of

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying HSA, tit. XV, sec. 1517).

schools in the southeast were destroyed, rendering the total number of schools destroyed or severely damaged as high as 5,000.

The 2010 earthquake exacerbated Haiti's position as the poorest nation in the Western Hemisphere and one of the poorest nations in the world. Given the risk of contracting cholera, unsafe living conditions in IDP camps, damaged infrastructure, and a shortage of permanent shelter, it is unsafe for Haitians currently in the United States with TPS to return home. While the situation has improved, the effects of the earthquake continue to reverberate in Haiti.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the July 23, 2011 extension and redesignation of Haiti for TPS continue to be met. *See* section 244(b)(3)(A) and (C) of the INA, 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continue to be extraordinary and temporary conditions in Haiti that prevent Haitian nationals from returning to Haiti in safety. *See* section 244(b)(1)(C) of the INA, 8 U.S.C. 1254a(b)(1)(C).
- It is not contrary to the national interest of the United States to permit Haitians (and persons who have no nationality who last habitually resided in Haiti) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* section 244(b)(1)(C) of the INA, 8 U.S.C. 1254a(b)(1)(C).
- The designation of Haiti for TPS should be extended for an additional 18-month period from January 23, 2013 through July 22, 2014. *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C).
- There are approximately 60,000 current Haiti TPS beneficiaries who are expected to be eligible to re-register for TPS under the extension.

Notice of Extension of the TPS Designation of Haiti

By the authority vested in me as Secretary under section 244 of the INA, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the redesignation of Haiti for TPS on July 23, 2011 continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing TPS designation of Haiti for 18 months from January 23, 2013 through July 22, 2014.

Janet Napolitano,
Secretary.

Required Application Forms and Application Fees To Register or Re-register for TPS

To register or re-register for TPS for Haiti, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).

- You only need to pay the Application for Temporary Protected Status (Form I–821) application fee if you are filing an application for late initial registration. *See* 8 CFR 244.2(f)(2) and information on late initial filing on the USCIS TPS Web page at *www.uscis.gov/tps.*
- You do not need to pay the Application for Temporary Protected Status (Form I–821) fee for a re-registration;

and

2. Application for Employment Authorization (Form I–765).

- If you are applying for re-registration, you must pay the Application for Employment Authorization (Form I–765) fee only if you want an EAD.
- If you are applying for late initial registration and want an EAD, you must pay the Application for Employment Authorization (Form I–765) fee only if you are age 14 through 65. No Application for Employment Authorization (Form I–765) fee is required if you are under the age of 14 or over the age of 65 and applying for late initial registration.
- You do not pay the Application for Employment Authorization (Form I–765) fee if you are not requesting an EAD, regardless of whether you are applying for re-registration or are filing a late initial registration.

You must submit both completed application forms together. If you are unable to pay for the application and/or biometrics fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for Application for Temporary Protected Status (Form I–821), Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Re-Filing a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can promptly process the applications and issue EADs. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications before the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed under good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* section 244(c)(3)(C) of the INA; 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Note: As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD and pay the Application for Employment Authorization (Form I–765) fee after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

Mailing Information

Mail your application for TPS to the proper address in Table 1:

TABLE 1—MAILING ADDRESS

If you live in . . .	For regular mail using the U.S. Postal Service, send to . . .	For delivery services other than the U.S. Postal Service, send to . . .
The State of Florida	USCIS, P.O. Box 4464, Chicago, IL 60680–4464	USCIS, Attn: TPS Haiti, 131 S. Dearborn 3rd Floor, Chicago, IL 60603–5517.
The State of New York	USCIS, P.O. Box 660167, Dallas, TX 75266–0167	USCIS, Attn: TPS Haiti, 2501 S. State Hwy. 121, Business, Suite 400, Lewisville, TX 75067.
Any other state	USCIS, P.O. Box 24047, Phoenix, AZ 85074–4047	USCIS, Attn: TPS Haiti, 1820 E. Skyharbor Circle S, Suite 100, Phoenix, AZ 85034.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD or are re-registering for the first time following a grant of TPS by the IJ or BIA, please mail your application to the appropriate address in Table 1 above. Upon receiving a Receipt Notice from USCIS, please send an email to the appropriate USCIS Service Center handling your application providing the receipt number and stating that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. If your USCIS receipt number begins with the letters ''LIN'', please email the Nebraska Service Center at *TPSijgrant.nsc@uscis.dhs.gov.* If your USCIS receipt number begins with the letters ''WAC'', please email the California Service Center at *TPSijgrant.csc@uscis.dhs.gov.* You can find detailed information on what further information you need to email and the email addresses on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

E-Filing

You cannot electronically file your application when registering or re-registering for Haiti TPS. Please mail your application to the mailing address listed in Table 1 above.

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

Am I eligible to receive an automatic 6-month extension of my current EAD from January 22, 2013 through July 22, 2013?

Provided that you currently have TPS under the Haiti designation, this notice automatically extends your EAD by 6 months if you:

- Are a national of Haiti (or an alien having no nationality who last habitually resided in Haiti);
- Received an EAD under the last extension or re-designation of TPS for Haiti; and
- Have an EAD with a marked expiration date of January 22, 2013, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

Although your EAD is automatically extended through July 22, 2013 by this notice, you must re-register timely for TPS in accordance with the procedures described in this notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I–9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization) on the Employment Eligibility Verification (Form I–9). An EAD is an acceptable document under ''List A.'' Employers may not reject a document based upon a future expiration date.

If your EAD has an expiration date of January 22, 2013, and states ''A–12'' or ''C–19'' under ''Category'', it has been extended automatically for 6 months by virtue of this **Federal Register** notice, and you may choose to present your EAD to your employer as proof of identity and employment authorization for Employment Eligibility Verification (Form I–9) through July 22, 2013 (see the subsection below titled ''*How do I and my employer complete the Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?''* for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this **Federal Register** notice confirming the automatic extension of employment authorization through July 22, 2013. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or List B plus List C.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of January 22, 2013, that state ''A–12'' or ''C–19'' under ''Category'' have been automatically extended for 6 months by virtue of this **Federal Register** notice, your employer will need to ask you about your continued employment authorization once January 22, 2013 is reached in order to meet its responsibilities for Employment Eligibility Verification (Form I–9). However, your employer does not need a new document in order to reverify your employment authorization until after July 22, 2013. Instead, you and your employer must make corrections to the employment authorization expiration dates in section 1 and section 2 of the Employment Eligibility Verification (Form I–9) (see the subsection below titled ''*What corrections should I and my employer at my current job make to the Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?''* for further information). In addition, you may also show this **Federal Register** notice to your employer to avoid confusion about what to do for the Form I–9.

After July 22, 2013, when the automatic extension expires, your

employer must reverify your employment authorization. You may show any document from List A or List C on the Employment Eligibility Verification (Form I–9) to satisfy this reverification requirement. Your employer is required to reverify on the Employment Eligibility Verification (Form I–9) your continued employment authorization upon the July 22, 2013 expiration of your TPS-related EAD but may not specify which List A or List C document you must present. Employers reverify either in Section 3 of the Form I–9 originally completed or, if this section has already been completed or if the version of Form I–9 is no longer valid, in Section 3 of a new Form I–9 using the most current version.

What happens after July 22, 2013 for purposes of employment authorization?

After July 22, 2013, employers may no longer accept the EADs that this **Federal Register** notice automatically extended. However, before that time, USCIS will issue new EADs to TPS re-registrants. These new EADs will have an expiration date of July 22, 2014 and can be presented to your employer for completion of Employment Eligibility Verification (Form I–9). Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Employment Eligibility Verification (Form I–9).

How do I and my employer complete the Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?

When using an automatically extended EAD to fill out the Employment Eligibility Verification (Form I–9) for a new job prior to July 22, 2013, you and your employer should do the following:

(1) For Section 1, you should:

a. Check ''An alien authorized to work'';

b. Write your alien number (USCIS number or A-number) in the first space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS Number is the same as your A-number without the A prefix); and

c. Write the automatic extension date (July 22, 2013) in the second space.

(2) For Section 2, employers should record the:

a. Document title;

b. Document number; and

c. Automatically extended EAD expiration date (July 22, 2013).

After July 22, 2013, employers must reverify the employee's employment authorization in Section 3 of the Employment Eligibility Verification (Form I–9).

What corrections should my current employer and I make to the Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Employment Eligibility Verification (Form I–9) as follows:

(1) For Section 1, you should:

a. Draw a line through the expiration date in the second space;

b. Write ''July 22, 2013'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 1; and

d. Initial and date the correction in the margin of Section 1.

(2) For Section 2, employers should:

a. Draw a line through the expiration date written in Section 2;

b. Write ''July 22, 2013'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 2; and

d. Initial and date the correction in the margin of Section 2.

After July 22, 2013, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

If you are an employer who participates in E-Verify, you will receive a ''Work Authorization Documents Expiring'' case alert when a TPS beneficiary's EAD is about to expire. Usually, this message is an alert to complete Section 3 of the Employment Eligibility Verification (Form I–9) to reverify an employee's employment authorization. For existing employees with TPS-related EADs that have been automatically extended, employers should dismiss this alert by clicking the red ''X'' in the ''dismiss alert'' column and follow the instructions above explaining how to correct the Employment Eligibility Verification (Form I–9). After July 22, 2013, employment authorization must be reverified in Section 3. Employers should never use E-Verify for reverification.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Haitian citizenship?

No. When completing the Employment Eligibility Verification (Form I–9), including reverifying employment authorization, employers must accept any documentation that appears on the Employment Eligibility Verification (Form I–9) lists of acceptable documentation, and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the Lists of the Acceptable Document for Form I–9. Therefore, employers may not request proof of Haitian citizenship when completing the Employment Eligibility Verification (Form I–9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that have been automatically extended pursuant to this **Federal Register** notice or EADs that are unexpired on their face, employers should accept such EADs as valid ''List A'' documents so long as the EADs reasonably appear to be genuine and to relate to the employee. See below for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call the USCIS Form I–9 Customer Support at 1–888–464–4218 (TDD 877–875–6028 for hearing impaired). For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155 (TDD for the hearing impaired is at 1–800–237–2515), which offers language interpretation in numerous languages.

Note to Employees

For general questions about the employment eligibility verification process, employees may call the USCIS National Customer Service Center at 1–800–375–5283; calls are accepted in English and Spanish. Employees or applicants may also call the OSC Worker Information Hotline at 1–800–255–7688 (TDD for the hearing impaired is at 1–800–237–2515) for information regarding employment discrimination based upon citizenship or immigration status, or based on national origin, or for information regarding discrimination related to the Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages. In order to comply with the law, employers must accept any document or combination of documents acceptable for Employment Eligibility Verification (Form I–9) completion if the documentation reasonably appears to be genuine and to relate to the employee. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-verify who receive an E-verify initial mismatch (''tentative nonconfirmation'' or ''TNC'') on employees must inform employees of the mismatch and give such employees an opportunity to challenge the mismatch. Employers are prohibited from taking adverse action against such employees based on the initial mismatch unless and until E-Verify returns a final nonconfirmation. For example, employers must allow employees challenging their mismatches to continue to work without any delay in start date or training, and without any change in hours or pay, while the final E-Verify determination remains pending. Additional information is available on the OSC Web site at *http://www.justice.gov/crt/about/osc* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State and Local Government Agencies (Such as Departments of Motor Vehicles)

While federal government agencies must follow the guidelines laid out by the federal government, state and local government agencies are permitted to create their own guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your expired EAD that has been automatically extended, or your EAD that has a valid expiration date;

(2) A copy of this **Federal Register** notice if your EAD is automatically extended under this notice;

(3) A copy of your Application for Temporary Protected Status Receipt Notice (Form I–797) for this re-registration;

(4) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you receive one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2012–23826 Filed 9–28–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0024; OMB No. 1660–0108]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before October 31, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: National Emergency Family Registry and Locator System.

Type of information collection: Revision of a currently approved information collection.

Form Titles and Numbers: None.

Abstract: NEFRLS is a Web-based database enabling FEMA to provide a nationally available and recognized database allowing adults (including medical patients) that have been

displaced by a Presidentially-declared major disaster or emergency to voluntarily register via the Internet or a toll-free number. This database will then allow designated individuals to search for displaced friends, family, and household members

Affected Public: Individuals and households.

Estimated Number of Respondents: 56,000.

Estimated Total Annual Burden Hours: 8134.

Estimated Cost: There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

Dated: September 24, 2012.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–23994 Filed 9–28–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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

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

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

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Lee (FEMA Docket No.: B–1245).	City of Auburn (11–04–8290P).	The Honorable Bill Ham, Jr., Mayor, City of Auburn, 144 Tichenor Avenue, Auburn, AL 36830.	Public Works Department, 171 North Ross Street, Auburn, AL 36830.	May 4, 2012	010144
Lee (FEMA Docket No.: B–1245).	Unincorporated areas of Lee County (11–04–8290P).	The Honorable Judge Bill English, Chairman, Lee County Board of Commissioners, P.O. Box 811, Opelika, AL 36803.	Lee County Building Inspector, 909 Avenue A, Opelika, AL 36801.	May 4, 2012	010250
Mobile (FEMA Docket No.: B–1245).	Unincorporated areas of Mobile County (11–04–5526P).	The Honorable Merceria Ludgood, President, Mobile County Commission, P.O. Box 1443, Mobile, AL 36633.	205 Government Street, 3rd Floor, South Tower, Mobile, AL 36644.	April 27, 2012	015008
Arizona:					
Maricopa (FEMA Docket No.: B–1245).	Town of Buckeye (11–09–3299P).	The Honorable Jackie A. Meck, Mayor, Town of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	April 27, 2012	040039

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Maricopa (FEMA Docket No.: B–1245).	Town of Wickenburg (11–09–3216P).	The Honorable Kelly Blunt, Mayor, Town of Wickenburg, 155 North Tegner Street, Suite A, Wickenburg, AZ 85390.	Town Hall, 155 North Tegner Street, Wickenburg, AZ 85390.	May 4, 2012	040056
Maricopa (FEMA Docket No.: B–1245).	Unincorporated areas of Maricopa County (11–09–3299P).	The Honorable Andrew Kunasek, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	April 27, 2012	040037

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

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–24018 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1269]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

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

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama:						
Madison	City of Huntsville (11–04–5937P).	The Honorable Tommy Battle, Mayor, City of Huntsville, P.O. Box 308, Huntsville, AL 35804.	City Hall, 308 Fountain Circle, Huntsville, AL 35801.	*http://www.bakeraecom.com/index.php/alabama/madison-4/.*	October 11, 2012	010153
Mobile	Unincorporated areas of Mobile County (12–04–0775P).	The Honorable Connie Hudson, President, Mobile County Commission, P.O. Box 1443, Mobile, AL 36633.	Mobile County, Government Plaza, Engineering Department, 205 Government Street, 3rd Floor, South Tower, Mobile, AL 36644.	*http://www.bakeraecom.com/index.php/alabama/mobile/.*	October 12, 2012	015008
Tuscaloosa	City of Tuscaloosa (11–04–6057P).	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, 2201 University Boulevard, Tuscaloosa, AL 35401.	Engineering Department, 2201 University Boulevard, Tuscaloosa, AL 35401.	*http://www.bakeraecom.com/index.php/alabama/tuscaloosa/.*	October 11, 2012	010203
Tuscaloosa	Unincorporated areas of Tuscaloosa County (12–04–0429P).	The Honorable W. Hardy McCollum, President, Tuscaloosa County Commission, 714 Greensboro Avenue, Tuscaloosa, AL 35401.	Tuscaloosa County Engineering Department, 2810 35th Street, Tuscaloosa, AL 35401.	*http://www.bakeraecom.com/index.php/alabama/tuscaloosa/.*	September 28, 2012.	010201
Arizona:						
Pima	Town of Sahuarita (12–09–1800P).	The Honorable Duane Blumberg, Mayor, Town of Sahuarita, 375 West Sahuarita Center Way, Sahuarita, AZ 85629.	Public Works Department, 375 West Sahuarita Center Way, Sahuarita, AZ 85629.	*http://www.r9map.org/Docs/12-09-1800P-040137-102IC.pdf.*	November 2, 2012.	040137
Pima	Unincorporated areas of Pima County (12–09–1311P).	The Honorable Ramon Valadez, Chairman, Pima County Board of Supervisors, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 97 East Congress Street, 3rd Floor, Tucson, AZ 85701.	*http://www.r9map.org/Docs/12-09-1311P-040073-102IAC.pdf.*	October 12, 2012	040073
Yavapai	Town of Clarkdale (11–09–3469P).	The Honorable Doug Von Gausig, Mayor, Town of Clarkdale, P.O. Box 308, Clarkdale, AZ 86324.	Public Works Department, 890 Main Street, Clarkdale, AZ 86324.	*http://www.r9map.org/Docs/11-09-3469P-040095-102IAC.pdf.*	October 15, 2012	040095
Yavapai	Unincorporated areas of Yavapai County (11–09–3469P).	The Honorable Thomas Thurman, Chairman, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 500 South Marina Street, Prescott, AZ 86303.	*http://www.r9map.org/Docs/11-09-3469P-040093-102IAC.pdf.*	October 15, 2012	040093
California:						
Napa	City of St. Helena (12–09–0871P).	The Honorable Del Britton, Mayor, City of St. Helena, 1480 Main Street, St. Helena, CA 94574.	Planning Department, 1480 Main Street, St. Helena, CA 94574.	*http://www.r9map.org/Docs/12-09-0871P-060208-102IAC.pdf.*	November 5, 2012.	060208
Napa	Unincorporated areas of Napa County (12–09–0871P).	The Honorable Keith Caldwell, Chairman, Napa County Board of Supervisors, 1195 3rd Street, Suite 310, Napa, CA 94559.	Napa County Public Works Department, 1195 1st Street, Suite 201, Napa, CA 94559.	*http://www.r9map.org/Docs/12-09-0871P-060205-102IAC.pdf.*	November 5, 2012.	060205
Riverside	Unincorporated areas of Riverside County (12–09–1637P).	The Honorable John F. Tavaglione, Chairman, Riverside County Board of Supervisors, P.O. Box 1646, Riverside, CA 92502.	Riverside County Flood Control & Water Conservation District, 1995 Market Street, Riverside, CA 92501.	*http://www.r9map.org/Docs/12-09-1637P-060245-102IAC.pdf.*	October 29, 2012	060245
San Bernardino.	Town of Apple Valley (12–09–1775P).	The Honorable Barb Stanton, Mayor, Town of Apple Valley, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	Town Hall, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	*http://www.r9map.org/Docs/12-09-1775P-060752-102IAC.pdf.*	October 15, 2012	060752
San Joaquin	City of Stockton (12–09–1923P).	The Honorable Ann Johnston, Mayor, City of Stockton, 425 North El Dorado Street, Stockton, CA 95202.	345 North El Dorado Street, Stockton, CA 95202.	*http://www.r9map.org/Docs/12-09-1923P-060302-102IAC.pdf.*	October 29, 2012	060302
San Joaquin	Unincorporated areas of San Joaquin County (12–09–1923P).	The Honorable Steve J. Bestolarides, Chairman, San Joaquin County Board of Supervisors, 44 North San Joaquin Street, Suite 627, Stockton, CA 95202.	222 East Weber Avenue, Stockton, CA 95202.	*http://www.r9map.org/Docs/12-09-1923P-060299-102IAC.pdf.*	October 29, 2012	060299

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Colorado:						
Adams	City of Westminster (11–08–0880P).	The Honorable Nancy McNally, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	Community Development, 4800 West 92nd Avenue, Westminster, CO 80031.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	August 31, 2012	080008
Arapahoe	City of Centennial (12–08–0411P).	The Honorable Cathy Noon, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 76 Inverness Drive East, Suite A, Centennial, CO 80112.	*http://www.bakeraecom.com/index.php/colorado/arapahoe/.*	October 29, 2012	080315
Arapahoe	Unincorporated areas of Arapahoe County (12–08–0411P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	Arapahoe County Public Works and Development Division, 6924 South Lima Street, Centennial, CO 80112.	*http://www.bakeraecom.com/index.php/colorado/arapahoe/.*	October 29, 2012	080011
La Plata	Unincorporated areas of La Plata County (12–08–0428P).	The Honorable Robert Lieb, Jr., Chairman, La Plata County Board of Commissioners, 1060 East 2nd Avenue, Durango, CO 81301.	Administration Office, 1060 East 2nd Avenue, Durango, CO 81301.	*http://www.bakeraecom.com/index.php/colorado/la-plata/.*	October 8, 2012	080097
Routt	City of Steamboat Springs (12–08–0379P).	The Honorable Jon B. Roberts, Manager, City of Steamboat Springs, P.O. Box 775088, Steamboat Springs, CO 80477.	City Hall Department of Planning and Community Development, 124 10th Street, Steamboat Springs, CO 80477.	*http://www.bakeraecom.com/index.php/colorado/routt/.*	October 22, 2012	080159
Florida:						
Charlotte	Unincorporated areas of Charlotte County (12–04–3482P).	The Honorable Christopher Constance, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Building Construction Services, 18400 Murdock Circle, Port Charlotte, FL 33948.	*http://www.bakeraecom.com/index.php/florida/charlotte/.*	October 12, 2012	120061
Escambia	Pensacola Beach-Santa Rosa Island Authority (12–04–2055P).	The Honorable Dave Pavlock, Chairman, Pensacola Beach-Santa Rosa Island Authority Board of Commissioners, P.O. Box 1208, Pensacola Beach, FL 32562.	Pensacola Beach-Santa Rosa Island Authority Development Department, 1 Via De Luna Drive, Pensacola Beach, FL 32561.	*http://www.bakeraecom.com/index.php/florida/escambia-2/.*	November 5, 2012.	125138
Seminole	City of Winter Springs (11–04–8261P).	The Honorable Charles Lacey, Mayor, City of Winter Springs, 1126 East State Road 434, Winter Springs, FL 32708.	Engineering Department, 1126 East State Road 434, Winter Springs, FL 32708.	*http://www.bakeraecom.com/index.php/florida/seminole-2/.*	October 12, 2012	120295
Georgia:						
Cherokee	Unincorporated areas of Cherokee County (12–04–1485P).	The Honorable L. B. Ahrens, Jr., Chairman, Cherokee County Board of Commissioners, 1130 Bluffs Parkway, Canton, GA 30114.	Cherokee County Engineering Department, 1130 Bluffs Parkway, Canton, GA 30114.	*http://www.bakeraecom.com/index.php/georgia/cherokee-2/.*	October 29, 2012	130424
Fulton	City of Sandy Springs (12–04–1394P).	The Honorable Eva Galambos, Mayor, City of Sandy Springs, 7840 Roswell Road, Building 500, Sandy Springs, GA 30350.	City Hall, 7840 Roswell Road, Building 500, Sandy Springs, GA 30350.	*http://www.bakeraecom.com/index.php/georgia/fulton/.*	September 7, 2012.	130669
Mississippi: Lee	City of Tupelo (12–04–2986P).	The Honorable Jack Reed, Jr., Mayor, City of Tupelo, P.O. Box 1485, Tupelo, MS 38802.	City Hall Planning Department, 71 East Troy Street, 3rd Floor, Tupelo, MS 38804.	*http://www.bakeraecom.com/index.php/mississippi/lee/.*	November 5, 2012.	280100
Missouri: St. Louis	City of Chesterfield (12–07–1972P).	The Honorable Bruce Geiger, Mayor, City of Chesterfield, 690 Chesterfield Parkway, West Chesterfield, MO 63017.	City Hall Public Works Department, 690 Chesterfield Parkway, West Chesterfield, MO 63017.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	October 26, 2012	290896
New York:						
Rockland	Town of Clarkstown (12–02–0115P).	The Honorable Alexander J. Gromack, Supervisor, Town of Clarkstown, 10 Maple Avenue, New City, NY 10956.	Department of Environmental Control, 10 Maple Avenue, New City, NY 10956.	*https://www.rampp-team.com/lomrs.htm.*	September 24, 2012.	360679

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Rockland	Village of Spring Valley (12–02–0115P).	The Honorable Noramie F. Jasmin, Mayor, Village of Spring Valley, 200 North Main Street, Spring Valley, NY 10977.	Village Hall Building Department, 8 Maple Avenue, Spring Valley, NY 10977.	*https://www.rampp-team.com/lomrs.htm.*	September 24, 2012.	365344
South Carolina: Charleston.	City of Folly Beach (12–04–1535P).	The Honorable Tim Goodwin, Mayor, City of Folly Beach, P.O. Box 1692, Folly Beach, SC 29439.	City Hall, 21 Center Street, Folly Beach, SC 29439.	*http://www.bakeraecom.com/index.php/southcarolina/charleston-2/.*	October 12, 2012	455415
Tennessee: Williamson.	Unincorporated areas of Williamson County (12–04–0338P).	The Honorable Rogers C. Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Complex Planning Department, 1320 West Main Street, Suite 125, Franklin, TN 37064.	*http://www.bakeraecom.com/index.php/tennessee/williamson/.*	October 11, 2012	470204

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

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–24023 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1271]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

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

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are

accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas: Benton ..	City of Rogers (12–06–1612P).	The Honorable Greg Hines, Mayor, City of Rogers, 301 West Chestnut Street, Rogers, AR 72756.	City Hall, 301 West Chestnut Street, Rogers, AR 72756.	*http://www.rampp-team.com/lomrs.htm.*	October 29, 2012	050013
Maryland: Washington.	Unincorporated areas of Washington County (12–03–1044P).	The Honorable Terry L. Baker, President, Washington County Board of Commissioners, 100 West Washington Street, Room 226, Hagerstown, MD 21740.	Washington County Administration Building, 100 West Washington Street, Hagerstown, MD 21740.	*http://www.rampp-team.com/lomrs.htm.*	November 13, 2012.	240070
New Mexico: Bernalillo.	City of Albuquerque (11–06–2877P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	600 2nd Street Northwest, Suite 201, Albuquerque, NM 87102.	*http://www.rampp-team.com/lomrs.htm.*	November 8, 2012.	350002
Pennsylvania:						
Blair	Township of Logan (11–03–1840P).	The Honorable Frank J. Meloy, Chairman, Township of Logan Board of Supervisors, 100 Chief Logan Circle, Altoona, PA 16602.	Logan Township Municipal Building, 10 Chief Logan Circle, Altoona, PA 16602.	*http://www.rampp-team.com/lomrs.htm.*	November 5, 2012.	421391
Lebanon	Township of Jackson (12–03–0843P).	The Honorable Dean O. Moyer, Chairman, Township of Jackson Board of Supervisors, 60 North Ramona Road, Myerstown, PA 17067.	Jackson Township Building, 60 North Ramona Road, Myerstown, PA 17067.	*http://www.rampp-team.com/lomrs.htm.*	November 26, 2012.	421805
Montgomery ...	Township of Marlborough (12–03–0885P).	The Honorable Joan Smith, Chair, Township of Marlborough Board of Supervisors, 6040 Upper Ridge Road, Green Lane, PA 18054.	Marlborough Municipal Building, 6040 Upper Ridge Road, Green Lane, PA 18054.	*http://www.rampp-team.com/lomrs.htm.*	November 9, 2012.	421913
Texas:						
Bexar	City of San Antonio (12–06–0838P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	November 16, 2012.	480045
Bexar	City of San Antonio, (12–06–1638P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	November 26, 2012.	480045
Bexar	Unincorporated areas of Bexar County, (12–06–0794P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Public Works Department, 233 North Pecos-La Trinidad, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	November 9, 2012.	480035
Bexar	Unincorporated areas of Bexar County, (12–06–2182P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Public Works Department, 233 North Pecos-La Trinidad, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	November 5, 2012.	480035
Collin	City of Parker, (12–06–0168P).	The Honorable Z. Marshall, Mayor, City of Parker, 5700 East Parker Road, Parker, TX 75002.	5700 East Parker Road, Parker, TX 75002.	*http://www.rampp-team.com/lomrs.htm.*	November 9, 2012.	480139
Collin	City of Plano, (12–06–0168P).	The Honorable Phil Dyer, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074.	1520 Avenue K, Suite 250, Plano, TX 75074.	*http://www.rampp-team.com/lomrs.htm.*	November 9, 2012.	480140
Collin	Unincorporated areas of Collin County, (12–06–0889P).	The Honorable Keith Self, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 825 North McDonald Street, Suite 160, McKinney, TX 75069.	*http://www.rampp-team.com/lomrs.htm.*	October 26, 2012	480130

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Dallas	City of Irving, (12–06–0738P).	The Honorable Herbert A. Gears, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Public Works Department, 825 West Irving Boulevard, Irving, TX 75060.	*http://www.rampp-team.com/lomrs.htm.*	November 16, 2012.	480180
Kendall	Unincorporated areas of Kendall County, (11–06–4333P).	The Honorable Gaylan Schroeder, Kendall County Judge, 201 East San Antonio Street, Suite 120, Boerne, TX 78006.	Kendall County Courthouse, 201 East San Antonio Street, Boerne, TX 78006.	*http://www.rampp-team.com/lomrs.htm.*	October 29, 2012	480417
Lubbock	City of Lubbock, (11–06–4090P).	The Honorable Glen Robertson, Mayor, City of Lubbock, 1625 13th Street, Lubbock, TX 79401.	City Hall, 1625 13th Street, Lubbock, TX 79401.	*http://www.rampp-team.com/lomrs.htm.*	November 1, 2012.	480452
Virginia: Loudoun	Town of Leesburg, (12–03–1300P).	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	*http://www.rampp-team.com/lomrs.htm.*	November 8, 2012.	510091

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

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–24024 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1268]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

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

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Coconino	City of Flagstaff (12–09–1074P).	The Honorable Sara Presler, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001.	City Hall, Stormwater Management Section, 211 West Aspen Avenue, Flagstaff, AZ 86001.	*http://www.r9map.org/Docs/12-09-1074P-040020-102IAC.pdf.*	September 20, 2012.	040020
Pima	Town of Marana (12–09–0475P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Engineering Department, 11555 West Civic Center Drive, Marana, AZ 85653.	*http://www.r9map.org/Docs/12-09-0475P-040118-102IAC.pdf.*	September 10, 2012.	040118
Arkansas: Pulaski	Unincorporated areas of Pulaski County (12–06–0415P).	The Honorable Floyd G. Villines, Pulaski County Judge, 201 South Broadway Street, Suite 400, Little Rock, AR 72201.	Pulaski County Road and Bridge Department, 3200 Brown Street, Little Rock, AR 72204.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2012	050179
California:						
Los Angeles	City of Long Beach (12–09–0872P).	The Honorable Bob Foster, Mayor, City of Long Beach, 333 West Ocean Boulevard, 14th Floor, Long Beach, CA 90802.	City Hall, 333 West Ocean Boulevard, 9th Floor, Long Beach, CA 90802.	*http://www.r9map.org/Docs/12-09-0872P-060136-102DA.pdf.*	October 5, 2012	060136
San Diego	City of Poway (12–09–1309P).	The Honorable Don Higginson, Jr., Mayor, City of Poway, 13325 Civic Center Drive, Poway, CA 92064.	City Hall, 13325 Civic Center Drive, Poway, CA 92064.	*http://www.r9map.org/Docs/12-09-1309P-060702-102DA.pdf.*	September 28, 2012.	060702
San Diego	Unincorporated areas of San Diego County (11–09–3923P).	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, CA 92101.	San Diego County Department of Public Works, Flood Control Division, 5201 Ruffin Road, Suite P, San Diego, CA 92123.	*http://www.r9map.org/Docs/11-09-3923P-060284-102IAC.pdf.*	September 13, 2012.	060284
Colorado:						
Adams	City of Aurora (12–08–0046P).	The Honorable Steve Hogan Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Engineering Department, 15151 East Alameda Parkway, Aurora, CO 80012.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	August 24, 2012	080002
Denver	City and County of Denver (12–08–0237P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Department 507, Denver, CO 80202.	*http://www.bakeraecom.com/index.php/colorado/denver/.*	October 5, 2012	080046
El Paso	City of Colorado Springs (12–08–0218P).	The Honorable Steve Bach, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	City Administration, 30 South Nevada Avenue, Colorado Springs, CO 80903.	*http://www.bakeraecom.com/index.php/colorado/el-paso/.*	October 8, 2012	080060
Larimer	Town of Estes Park (11–08–0971P).	The Honorable William C. Pinkham, Mayor, Town of Estes Park, P.O. Box 1200, Estes Park, CO 80517.	Municipal Building, 170 MacGregor Avenue, Estes Park, CO 80517.	*http://www.bakeraecom.com/index.php/colorado/larimer/.*	October 1, 2012	080193
Florida:						
Monroe	Unincorporated areas of Monroe County (12–04–2446P).	The Honorable David Rice, Mayor, Monroe County, 9400 Overseas Highway, Suite 210, Marathon Airport Terminal, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 330, Marathon, FL 33050.	*http://www.bakeraecom.com/index.php/florida/monroe-3/.*	September 20, 2012.	125129
Orange	Unincorporated areas of Orange County (11–04–6805P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	October 5, 2012	120179

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Orange	Unincorporated areas of Orange County (12–04–2577P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	September 21, 2012.	120179
Pinellas	City of Treasure Island (12–04–2824P).	The Honorable Robert Minning, Mayor, City of Treasure Island, 120 108th Avenue, Treasure Island, FL 33706.	City Hall, Building Department, 120 108th Avenue, Treasure Island, FL 33706.	*http://www.bakeraecom.com/index.php/florida/pinellas/.*	September 20, 2012.	125153
Nevada:						
Washoe	City of Sparks (11–09–3429P).	The Honorable Gino Martini, Mayor, City of Sparks, P.O. Box 857, Sparks, NV 89432.	City Hall, 431 Prater Way, Sparks, NV 89432.	*http://www.r9map.org/Docs/11-09-3429P-320021-102IAC.pdf.*	September 21, 2012.	320021
Washoe	Unincorporated areas of Washoe County (11–09–3429P).	The Honorable Robert Larkin, Chairman, Washoe County Board of Commissioners, P.O. Box 11130, Reno, NV 89520.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	*http://www.r9map.org/Docs/11-09-3429P-320019-102IAC.pdf.*	September 21, 2012.	320019
New Mexico:						
Bernalillo	Unincorporated areas of Bernalillo County (11–06–4300P).	The Honorable Art De La Cruz, Chair, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard, Southeast, Albuquerque, NM 87102.	*http://www.rampp-team.com/lomrs.htm.*	September 5, 2012.	350001
Pennsylvania:						
Chester	Borough of West Chester (12–03–0618P).	Mr. Ernest B. McNeeley Manager, Borough of West Chester 401 East Gay Street West Chester, PA 19380.	Borough Hall, Building, Housing, and Code Enforcement Department, 401 East Gay Street, West Chester, PA 19380.	*http://www.rampp-team.com/lomrs.htm.*	October 12, 2012	420292
Chester	Township of Highland (12–03–1320P).	The Honorable Thomas Scott, Chairman, Township of Highland Board of Supervisors, 100 Five Point Road, Coatesville, PA 19320.	Highland Township Building, Road 3, Gum Tree Road, Coatesville, PA 19320.	*http://www.rampp-team.com/lomrs.htm.*	October 18, 2012	422289
Chester	Township of Londonderry (12–03–1320P).	The Honorable Richard Brown, Chairman, Township of Londonderry Board of Supervisors, 103 Daleville Road, Cochranville, PA 19330.	Londonderry Township Building, 103 Daleville Road, Cochranville, PA 19330.	*http://www.rampp-team.com/lomrs.htm.*	October 18, 2012	421484
Chester	Township of West Marlborough (12–03–1320P).	The Honorable William W. Wylie, Chairman, Township of West Marlborough Board of Supervisors, 1300 Doe Run Road, Coatesville, PA 19320.	West Marlborough Township Hall, 1300 Doe Run Road, Coatesville, PA 19320.	*http://www.rampp-team.com/lomrs.htm.*	October 18, 2012	422279
Puerto Rico: Puerto Rico	Commonwealth of Puerto Rico (11–02–2538P).	Mr. Ruben Flores-Marzan, Chairperson, Puerto Rico Planning Board, Roberto Sanchez Vilella Governmental Center, North Building, 16th Floor, De Diego Avenue International Baldorioty de Castro Avenue, San Juan, PR 00940.	Roberto Sanchez Vilella Governmental Center, North Building, 9th Floor, De Diego Avenue International Baldorioty de Castro Avenue, San Juan, PR 00940.	*http://www.rampp-team.com/lomrs.htm.*	September 4, 2012.	720000
South Carolina:						
Richland	City of Columbia (11–04–0263P).	The Honorable Steve Benjamin, Mayor, City of Columbia, 1737 Main Street, Columbia, SC 29201.	City Hall, 1737 Main Street, Columbia, SC 29201.	*http://www.bakeraecom.com/index.php/southcarolina/richland/.*	October 1, 2012	450172
York	City of Rock Hill (12–04–0821P).	The Honorable Doug Echols, Mayor, City of Rock Hill, P.O. Box 11706, Rock Hill, SC 29731.	City Hall, 155 Johnson Street, Rock Hill, SC 29731.	*http://www.bakeraecom.com/index.php/southcarolina/york/.*	September 17, 2012.	450196
Texas:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Bexar	City of San Antonio (11–06–4227P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2012	480045
Bexar	City of San Antonio (12–06–0221P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2012	480045
Bexar	City of San Antonio (12–06–0574P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	October 4, 2012	480045
Collin	City of Allen (12–06–0928P).	The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, 1st Floor, Allen, TX 75013.	City Hall, Engineering Department, 305 Century Parkway, 1st Floor, Allen, TX 75013.	*http://www.rampp-team.com/lomrs.htm.*	October 19, 2012	480131
Guadalupe	City of Schertz (12–06–1767P).	Mr. John Kessel, Manager, City of Schertz, 1400 Schertz Parkway, Schertz, TX 78154.	City Hall, 1400 Schertz Parkway, Schertz, TX 78154.	*http://www.rampp-team.com/lomrs.htm.*	October 18, 2012	480269
Johnson	City of Burleson (11–06–3655P).	The Honorable Ken D. Shetter, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 76028.	City Hall, 141 West Renfro Street, Burleson, TX 76028.	*http://www.rampp-team.com/lomrs.htm.*	September 20, 2012.	485459
Tarrant	City of Benbrook (11–06–0937P).	The Honorable Jerry B. Dittrich, Ph.D., Mayor, City of Benbrook, 911 Winscott Road, Benbrook, TX 76126.	Department of Community Development, 911 Winscott Road, Benbrook, TX 76126.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2012	480586
Tarrant	City of Crowley (11–06–4129P).	The Honorable Billy Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	City Hall, Community Development Department, 201 East Main Street, Crowley, TX 76036.	*http://www.rampp-team.com/lomrs.htm.*	October 12, 2012	480591
Tarrant	City of Fort Worth (12–06–0273P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.rampp-team.com/lomrs.htm.*	October 1, 2012	480596
Tarrant	Unincorporated areas of Tarrant County (11–06–4129P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Suite 501, Fort Worth, TX 76102.	Administrative Building, Public Works Department, 100 East Weatherford Street, Fort Worth, TX 76102.	*http://www.rampp-team.com/lomrs.htm.*	October 12, 2012	480582
Utah:						
Wasatch	Town of Independence (12–08–0153P).	The Honorable Phil Sweat, Mayor, Town of Independence, 4530 East Center Creek Road, Heber City, UT 84032.	4530 East Center Creek Road, Heber City, UT 84032.	*http://www.bakeraecom.com/index.php/utah/wasatch/.*	August 30, 2012	490263
Wasatch	Unincorporated areas of Wasatch County (12–08–0153P).	The Honorable Michael L. Kohler, Chairman, Wasatch County Board of Commissioners, 25 North Main, Heber City, UT 84032.	188 South Main, Heber City, UT 84032.	*http://www.bakeraecom.com/index.php/utah/wasatch/.*	August 30, 2012	490164
Wyoming:						
Laramie	City of Cheyenne (11–08–0928P).	The Honorable Richard Kaysen, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Room 310, Cheyenne, WY 82001.	City of Cheyenne Engineer's Office, 2101 O'Neil Avenue, Room 206, Cheyenne, WY 82001.	*http://www.bakeraecom.com/index.php/wyoming/laramie/.*	September 27, 2012.	560030
Laramie	Unincorporated areas of Laramie County (11–08–0928P).	The Honorable Gay Woodhouse, Chairman, Laramie County Board of Commissioners, 310 West 19th Street, Suite 300, Cheyenne, WY 82001.	Laramie County Planning Department, Historic County Courthouse, 310 West 19th Street, Suite 400, Cheyenne, WY 82001.	*http://www.bakeraecom.com/index.php/wyoming/laramie/.*	September 27, 2012.	560029

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

Dated: September 14, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–24016 Filed 9–28–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4080–DR; Docket ID FEMA–2012–0002]

Louisiana; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Louisiana (FEMA–4080–DR), dated August 29, 2012, and related determinations.

DATES: *Effective Date:* September 21, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Louisiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 29, 2012.

The parishes of Ascension, East Baton Rouge, Jefferson, Livingston, Plaquemines, St. Bernard, St. John the Baptist, and West Feliciana for Public Assistance [Categories C–G] (already designated for Individual Assistance and debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–24026 Filed 9–28–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2012–N186; FXES11130200000F5–123–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. The Act and the National Environmental Policy Act also require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before October 31, 2012.

ADDRESSES: Marty Tuegel, Section 10 Coordinator, by U.S. mail at Division of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM at (505) 248–6651. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6641.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 et seq.) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits. A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–039571

Applicant: Bureau of Land Management, Yuma, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit TE–78959A

Applicant: Sarah Weber, Spring Branch, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

Permit TE–78960A

Applicant: Federal Emergency Response Agency, Denton, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of, to temporarily hold and handle, and to salvage Houston toads (*Bufo houstonensis*) within Texas.

Permit TE–07059A

Applicant: Paul Marsh, Chandler, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absences surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Mega fulgida*) within Arizona.

Permit TE–80954A

Applicant: Thomas Crane, American Livebearer Association, Ridgewood, New Jersey.

Applicant requests a new permit for research and recovery purposes to breed and capitvely hold Big Bend gambusia (*Gambusia gaigei*), Gila topminnow (*Poeciliopsis occidentalis occidentalis*), and Pecos gambusia (*Gambusia nobilis*) obtained from The Dexter National Fish Hatchery and Technology Center, New Mexico, in American Livebearer Facilities across the United States.

Permit TE–014168

Applicant: Peter Sprouse, Manchaca, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Barton Springs salamander (*Eurycea sosorum*)
- Bee Creek Cave harvestman (*Texella reddelli*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (*Rhadine exilis)*
- Ground beetle *(Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Madla Cave meshweaver (*Cicurina madla*)
- Peck's Cave amphipod (*Stygobromus pecki*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- San Marcos salamander (*Eurycea nana*)
- Texas blind salamander (*Typhlomolge rathbuni*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta (=Leptoneta) myopica*)

Permit TE–208531

Applicant: Sarah Zappitello, Manchaca, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Bee Creek Cave harvestman (*Texella reddelli*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (*Rhadine exilis)*
- Ground beetle *(Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Madla Cave meshweaver (*Cicurina madla*)
- Peck's Cave amphipod (*Stygobromus pecki*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- San Marcos salamander (*Eurycea nana*)
- Texas blind salamander (*Typhlomolge rathbuni*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta (=Leptoneta) myopica*)

Permit TE–217655

Applicant: Rachel Barlow, Manchaca, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Bee Creek Cave harvestman (*Texella reddelli*)
- Black-capped vireo (*Vireo atricapilla*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (*Rhadine exilis)*
- Ground beetle *(Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Madla Cave meshweaver (*Cicurina madla*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta (=Leptoneta) myopica*)

Permit TE–83598A

Applicant: Bureau of Reclamation, Oklahoma-Texas Area Office, Oklahoma City, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma.

Permit TE–078127

Applicant: Dallas World Aquarium, Dallas, Texas.

Applicant requests a new permit for husbandry and holding of Kemp's ridley (*Lepidochelys kempii*), leather back (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles within the Dallas World Aquarium, Dallas, Texas.

Permit TE–155413

Applicant: Murray Itzkowitz, Bethlehem, Pennsylvania.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of, net, fin clip for genetic analysis, and expand breeding habitat by removing bulrush and preventing regrowth using submerged cement tile for Leon Springs pupfish (*Cyprinodon bovines*) and Pecos gambusia (*Gambusia nobilis*) within Texas.

Permit TE–069320

Applicant: KBA Enviroscience, Ltd., Lewisville, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) in Kansas, Nebraska, and South Dakota; interior least tern (*Sterna antillarum*) and red-cockaded woodpecker (*Picoides borealis*) within Oklahoma, Arkansas,

and Louisiana; and piping plover (*Charadrius melodus*) within Oklahoma and Louisiana.

Permit TE–828830

Applicant: Bureau of Land Management, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of the following species within Arizona:

- Desert pupfish (*Cyprinodon macularius*)
- Gila chub (*Gila intermedia*)
- Gila topminnow (*Poeciliopsis occidentalis*)
- Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*)
- Loach minnow (*Tiaroga cobitis*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Spikedace (*Meda fulgida*)

Permit TE–83692A

Applicant: Sphere 3 Environmental, Inc., Longview, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of red-cockaded woodpecker (*Picoides borealis*) within Texas.

Permit TE–83693A

Applicant: Oklahoma Biological Survey, Norman, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and collect stems, seeds, and voucher specimens of haperella (*Ptilimnium nodosum*) within Oklahoma.

Permit TE–051832

Applicant: Phoenix Zoo, Phoenix, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct animal husbandry and captive management of California condors (*Gymnogyps californianus*) within the Phoenix Zoo, Arizona.

Permit TE–012642

Applicant: Blue Earth Ecological Consultants, Santa Fe, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of loach minnow (*Tiaroga cobitis*) within New Mexico and Arizona.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: September 24, 2012.

Benjamin N Tuggle,

Regional Director, Southwest Region.

[FR Doc. 2012–24116 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N228; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before October 31, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Kimberly Stewart (Ross University School of Veterinary Medicine) in collaboration with the Georgia Sea Turtle Center, Jekyll Island, GA; PRT–77898A

The applicant requests a permit to import biological specimens from hawksbill sea turtles (*Eretmochelys imbricata*) from the wild in St. Kitts, West Indies, for the purpose of scientific research on the nutritional health of this species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John Panettiere, Atlanta, GA; PRT–85524A

Applicant: John Deford, Long Valley, NJ; PRT–84244A

Applicant: Rian Burkes, Hibbing, MN; PRT–83627A

Applicant: Charles Campisi, Maspeth, NY; PRT–83519A

Applicant: Randal Easley, Clovis, CA; PRT–85002A

Applicant: Paul Maddison, Richmond, TX; PRT–83806A

Applicant: Allan Spina, Long Valley, NJ; PRT–85523A

Applicant: Edward Hopkins, Henderson, NV; PRT–83025A

Applicant: James Wood, Katy, TX; PRT–85358A

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–24094 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2012–N145; BAC–4311–K9–S3]

John Heinz National Wildlife Refuge at Tinicum, DE and Philadelphia Counties, PA; Final Comprehensive Conservation Plan and Finding of No Significant Impact

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for John Heinz National Wildlife Refuge at Tinicum (John Heinz NWR, refuge) in Delaware and Philadelphia Counties, Pennsylvania. In this final CCP, we describe how we will manage the refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a hard copy or a CD–ROM.

Agency Web site: Download a copy of the document at *http://www.fws.gov/northeast/planning/John%20Heinz/ccphome.html.*

Email: Send requests to *northeastplanning@fws.gov.* Include ''John Heinz NWR Final CCP'' in the subject line of your email.

Mail: Lia McLaughlin, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

Fax: Attention: Lia McLaughlin, 413–253–8468.

In-Person Viewing or Pickup: Call (215) 365–3118 to make an appointment (necessary for view/pickup only) during regular business hours at 8601 Lindbergh Blvd., Philadelphia, PA 19153.

FOR FURTHER INFORMATION CONTACT: Gary Stolz, Refuge Manager, phone: (215) 365–3118, or Lia McLaughlin, Planning Team Leader, phone: 413–253–8575; email: *northeastplanning@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for John Heinz NWR. We started this process through a notice of intent in the **Federal Register** (75 FR 25285) on May 7, 2010. We released the draft CCP/environmental assessment (EA) to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (77 FR 16854) on March 22, 2012.

The refuge was established in 1972 to preserve and restore the natural area known as Tinicum Marsh, to promote environmental education, and to afford visitors an opportunity to study wildlife in its natural habitat. It is located in Delaware and Philadelphia Counties, along the Delaware River, in southeastern Pennsylvania. Currently, the refuge includes 993 acres of freshwater tidal marsh, open water, grassland, and forest habitat. It is an important migratory stopover for birds along the Atlantic Flyway, and provides habitat for State-listed threatened and endangered species such as the eastern redbelly turtle (*Pseudemys rubriventris*). The refuge also offers unique opportunities for environmental education and interpretation in an urban setting.

We announce our decision and the availability of the Finding of No Significant Impact (FONSI) for the final CCP for John Heinz NWR in accordance with National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft CCP/EA.

The CCP will guide us in managing and administering John Heinz NWR for the next 15 years. Alternative B, as described for the refuge in the draft CCP/EA, and with the modifications described below, is the foundation for the final CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each NWR. 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 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 Administration Act.

CCP Alternatives, Including the Selected Alternative

Our draft CCP/EA addressed several key issues. To address these issues and develop a plan based on the refuge's establishing purposes, vision, and goals, we evaluated three alternatives for John Heinz NWR in the draft CCP/EA. The draft CCP/EA describes each alternative in detail and relates them to the issues and concerns that arose during the planning process. Below, we provide summaries for the three John Heinz NWR alternatives evaluated in the draft CCP/EA.

Management Alternatives

Alternative A (Current Management)

Alternative A (current management) satisfies the National Environmental Policy Act (40 CFR 1506.6(b)) requirement of a ''No Action'' alternative, which we define as ''continuing current management.'' It describes our existing management priorities and activities, and serves as a baseline for comparing and contrasting alternatives B and C. It would maintain our present levels of approved refuge staffing and the biological and visitor programs now in place. We would continue to focus on providing native tidal marsh habitat for migrating and nesting wading birds; wintering marshbirds, waterfowl, and shorebirds; and other wildlife. We would also continue to actively control invasive species, manage grassland habitats, and maintain dikes and water levels in the impoundment. Our environmental education program would continue to focus on providing training for teachers so they could guide field trips on refuge property.

Alternative B (Focus on Environmental Education for Urban Youth)

This is the Service-preferred alternative. It combines the actions we believe would best achieve the refuge's purposes, vision, and goals, and the intent of NWRS policy on Biological Integrity, Diversity, and Environmental Health (601 FW 3). This alternative would also best respond to the issues that arose during the planning process.

Under alternative B, we would expand our freshwater tidal marsh restoration efforts, implement additional forest habitat restoration and management efforts, and increase monitoring efforts for species and for climate change effects. Our environmental education program would focus on expanding staff-led and volunteer-led programs for urban youth. We would also develop environmental education programs that focus on this audience, and work to develop long-term relationships with schools and school districts. We would work to expand environmental interpretation opportunities and infrastructure on the refuge as well.

Alternative C

Alternative C would focus on restoring degraded forests and converting specific grassland areas to shrubland habitat. As in alternative B, we would emphasize invasive species management, freshwater tidal marsh restoration, and monitoring for climate change adaptation. However, under alternative C, we would delay much of these efforts to more fully assess the potential effects of climate change and propose restoring all of the impoundment to tidal marsh. Under alternative C, environmental educational programming would concentrate on providing high school and college-level programs focused on encouraging and training the next generation of conservation professionals and environmentally concerned citizens. We would also focus on playing a more regional role in conservation efforts.

Comments

We solicited comments on the draft CCP/EA for John Heinz NWR from March 22 to April 23, 2012 (77 FR 16854). During the comment period, we received 19 sets of responses including comments from public meetings, a phone call, electronic mail, and letters. We evaluated all of the substantive comments we received, and include a summary of those comments, and our responses to them, as appendix K in the final CCP.

Selected Alternative

We have selected alternative B for implementation, with the following modifications:

- We highlighted that we will be working closely with the Philadelphia International Airport to assess any wildlife hazards prior to implementing any wetland restoration under objective 1.1 in chapter 4.
- We incorporated updated information on species provided by the Pennsylvania Fish and Boat Commission into section 3.3 of chapter 3 and section 2.5 of appendix C.
- We added the following strategy to objective 2.1 in chapter 4: ''Work with partners to identify and obtain resources to replace the water control system in the impoundment.''
- We modified the bicycling compatibility determination in appendix B to open one additional trail to bicycling.
- We corrected all format and typographical errors that were brought to our attention.

We have selected alternative B to implement for John Heinz NWR, with these minor changes, for several reasons. Alternative B comprises a mix of actions that, in our professional judgment, work best towards achieving the refuge's purposes, vision, and goals, NWRS policies, and the goals of other State and regional conservation plans. We also believe that alternative B most effectively addresses key issues raised during the planning process. The basis of our decision is detailed in the FONSI (appendix L in the final CCP).

Public Availability of Documents

You can view or obtain the final CCP, including the FONSI, as indicated under **ADDRESSES**.

Dated: August 27, 2012.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2012–24046 Filed 9–28–12; 8:45 a.m.]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Preliminary Plan for Distribution of Judgment Funds to the Loyal Mdewakantons

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of hearings and request for comments.

SUMMARY: The Department of the Interior is developing a plan for distribution of judgment funds to the Loyal Mdewakantons if funds are appropriated in satisfaction of a final judgment. The distribution plan includes a determination of the criteria for eligibility to participate in any award.

DATES: Comments on the preliminary plan must be received by November 1, 2012. The Department will hold in-person hearings on the preliminary plan

on October 30, 2012, from 6 p.m. to 10 p.m. in Sioux Falls, South Dakota at the Best Western Plus Sioux Falls Ramkota Hotel, 3200 W. Maple Street, and on November 1, 2012, from 6 p.m. to 10 p.m. in Bloomington, Minnesota at the Ramada Mall of America, 2300 East American Boulevard.

ADDRESSES: Send comments to David Christensen, Tribal Operations Officer, Bureau of Indian Affairs, Midwest Regional Office, Norman Pointe II, 5600 West American Boulevard, Suite 500, Bloomington, MN 55437.

FOR FURTHER INFORMATION CONTACT: David Christensen, Tribal Operations Officer, Bureau of Indian Affairs, Midwest Regional Office, Norman Pointe II, 5600 West American Boulevard, Suite 500, Bloomington, MN 55437; telephone (612) 725–4554.

SUPPLEMENTARY INFORMATION: On August 5, 2011, as corrected by Order dated August 18, 2011, the Court of Federal Claims directed the Secretary of the Interior to prepare and submit to the Court a roll of eligible claimants and a distribution plan for funds arising from the judgment in *Wolfchild, et al.* v. *United States,* Docket Nos. 03–2684L & 01–568L, under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401–1407). The Secretary has developed a preliminary plan for distribution of the $673,944 judgment among an estimated 20,750 or more potential beneficiaries. Based on the estimated 20,000 or more potential claimants represented in the court action, individual payments are likely to be in the $20.00-$40.00 range. The underlying judgment of the Court is the subject of appeals by the parties and, as such, no funds have yet been made available for any distribution.

Interested parties should note that the individual Plaintiffs and the Defendant in the underlying litigation have appealed the CFC's judgment to the United States Court of Appeals for the Federal Circuit. (See, Fed. Cir. Case Nos. 2012–5035, -5036, -5043 (consolidated), Appeal from the United States Court of Federal Claims in Consolidated Case Nos. 03–CV–2684 and 01–CV–0568.) Because the parties have filed appeals to the Federal Circuit, the CFC's judgment is not final and the Department of the Treasury has not appropriated any funds to be distributed.

In furtherance of complying with the Court's order to ''complete preparation of such roll and plan satisfying the criteria specified in 25 U.S.C. 1403'' the Department, in accordance with 25 CFR 87.3(b), will hold hearings on the record in Sioux Falls, South Dakota on October 30, 2012, and in Bloomington, Minnesota on November 1, 2012 to receive testimony on the preliminary plan. Written testimony will also be accepted at the hearings or can be sent to the address in the **ADDRESSES** section of this notice. Please be advised that your testimony, whether oral or written, may be made publicly available at any time. While you can request that any personal identifying information contained in your testimony be withheld from public review, we cannot guarantee that we will be able to do so.

The preliminary plan for the distribution of these funds reads as follows:

Draft Report and Preliminary Plan

For the Use and Distribution of Judgment Funds Awarded to the Descendants of the Loyal Mdewakanton in Docket Nos. 03–2684L & 01–568L, Before the United States Court of Federal Claims

Background

The Department of the Interior respectfully submits this plan for the distribution of $673,944.00, awarded by the Court of Federal Claims in the case of *Wolfchild* v. *United States,* Dockets No. 03–2684L & No. 01–568L, August 5, 2011. *Wolfchild* v. *United States,* 101 Fed. Cl. 54 (2011) (as corrected August 18, 2011). The court remitted and remanded to the Secretary the work of preparing a plan for the distribution of the funds, setting forth the criteria for eligibility, and then developing a roll of eligible claimants.

This case was brought in 2003 by a group of individuals who claim to be the lineal descendants of the 1886 Mdewakantons, called the ''loyal Mdewakantons.'' Over time, more individuals have joined the suit as plaintiffs or plaintiff-interveners, and this number is now estimated as exceeding 20,750. The litigation has yielded various and sometimes competing theories and definitions of a ''loyal Mdewakanton'' that would be eligible to share in an award.

In August 1862, the Minnesota Sioux [1], then living on two reservations in Southern Minnesota, rebelled against the United States. The uprising resulted from the needless delay in distributing promised treaty annuities, including food, to the starving Indians. The United States responded with military force, and many of the Indians were expelled from Minnesota or captured. After the rebellion was quelled, Congress abrogated and annulled the treaties that had established the reservations and that had provided an annuity to be paid to the tribes. The Minnesota Sioux reservation lands in Minnesota were confiscated, and most of the Sioux were forced to relocate further west.

Even in the aftermath of the uprising, when the Congress was debating the bill that would investigate the hostilities and impose punitive measures, recognition was given to the existence of a group of Indians who ''have been faithful to the whites, have defended them, and who have saved their lives in Minnesota.'' Many of those individuals, because of their actions, severed their ties to the tribe and remained in Minnesota. The government's confiscation of the Sioux lands in Minnesota and the forfeiture of the annuities that had been paid pursuant to the abrogated treaties left those individuals poverty-stricken and homeless. In acknowledging the contributions of this group, consisting of about 200 individuals, Congress authorized the Secretary of the Interior to convey 80 acres of public land to ''each individual of the before-named bands who exerted himself in rescuing the whites from the late massacre of said Indians.'' Act of February 16, 1863, 12 Stat. at 654. Two weeks later, Congress enacted another statute providing: [I]t shall be lawful for [the] Secretary [of the Interior] to locate any meritorious individual Indian of [the four] bands, who exerted himself to save the lives of the whites in the late massacre, upon [the former Sioux reservation lands] on which the improvements are situated, assigning the same to him to the extent of eighty acres, to be held by such tenure as is or may be provided by law . . . [provided] [t]hat no more than eighty acres shall be awarded to any one Indian, under this or any other act.'' Act of March 3, 1863, ch. 119, section 4, 12 Stat. at 819.

The Secretary never exercised the authority granted by the 1863 legislation to provide lands to the friendly Sioux, due to the intense opposition of the white settlers. In regard to the friendly Sioux remaining in Minnesota, the 1866 Report of the Secretary of the Interior noted ''it is noticeable that Congress has, by several enactments, made attempts to provide for them by donations of land and money; but it has been found impracticable to accomplish anything under those acts, on account of the hostility manifested by the white people of that region towards everything in the form of an Indian. Many of these men have, for the past three years, been

[1] The Minnesota Sioux consisted of 4 bands: The Sisseton, Wahpaton (upper bands), Wahpakootas and Mdewakantons (lower bands). Contemporaneous accounts put most of the blame for the rebellion on the lower bands. [Report of the Secretary of the Interior, 1866; Joint Appendix, Ex. 32]

homeless wanderers, and actually suffering from want: A very poor return for services rendered to the whites for the risk of their lives.''

Efforts to provide for the Minnesota Sioux who had aided the settlers during the Sioux Uprising continued. In 1888, 1889, and 1890, Congress enacted legislation appropriating funds for the support of a number of designated Indian tribes. Motivated by the failure of the 1863 Acts to provide relief, Congress included in each of these statues, known collectively as the ''Appropriations Acts'', a paragraph allocating a small sum to be used for the benefit of the Mdewakantons who had remained in Minnesota after the 1862 revolt or had returned to Minnesota in the following years.

The 1888 Act appropriated $20,000 ''to be expended by the Secretary of the Interior'' in purchasing land, cattle, horses, and agricultural implements for the ''full-blood Indians in Minnesota belonging to the Mdewakanton band of Sioux Indians, who have resided in [Minnesota]'' since May 20, 1886, and who have ''severed their tribal relations.'' Act of June 29, 1888, ch. 503, 25 Stat. 217, 228–29. In 1889, Congress appropriated a further sum of $12,000 ''to be expended by the Secretary of the Interior'' for the ''full-blood'' loyal Mdewakanton residing in Minnesota since May 20, 1886, or ''who were then engaged in removing to said State.'' Act of March 2, 1889, ch. 412, 25 Stat. 980, 992–93. The 1889 Act was substantially similar to the 1888 Act but included three additional provisions not included in the 1888 Act. Unlike the 1888 Act, the 1889 Act required the Secretary to expend the appropriated funds in a manner such that each loyal Mdewakanton received as close to an equal amount as practicable. Additionally, the 1889 Act mandated that any money appropriated in the 1889 Act not expended within the fiscal year would not be recovered by Treasury, but rather would be carried over to the following years and expended for the benefit of the loyal Mdewakanton. The 1889 Act made the ''equal amount'' requirements applicable to the money appropriated under the 1888 Act as well. In 1890, Congress appropriated an additional $8,000 and adopted the same substantive provisions as the 1889 Act, except that it expressly stated that the further appropriated amount was to support Indians of both ''full and mixed blood.'' Act of August 19, 1890, 26 Stat. 336, 349. The 1889 and 1890 Acts also differed from the 1888 Act by granting the Secretary discretion based on what ''may be deemed best in the case of each of these Indians *or family thereof.'' Id.* at 992 (emphasis added). The 1888 Act, on the other hand, made no explicit mention of the loyal Mdewakantons' families as beneficiaries of the appropriations. *See* 25 Stat. at 228–29.

The Department of the Interior used approximately $15,600 of the $40,000 appropriated under the three Appropriations Acts to purchase parcels of land in various parts of southern Minnesota where the Mdewakantons had settled. Because of difficulties in determining which of the Mdewakantons qualified as ''loyal'' during the 1862 uprising, the Appropriations Acts provided that the appropriations would be designated for the benefit of all Mdewakantons who were living in or in the process of removing to Minnesota as of May 20, 1886. As a result, the lands purchased with funds from the three Appropriations Acts are known as ''the 1886 lands,'' and the Mdewakantons who were statutorily eligible for benefits under the Acts are commonly referred to as ''the 1886 Mdewakantons.'' The Department of the Interior assigned individual plots from those lands to qualifying Mdewakantons for their use and occupancy, so long as they resided on or otherwise used the land.

The text delineating the beneficiary class in each Appropriation Act varied in minute respects, but the essential thrust of the Acts was Congress' desire that loyal Mdewakanton would be identified as those Mdewakanton who had severed their tribal relations and who had either remained in, or were removing to, Minnesota as of May 20, 1886. To determine the persons who would be considered ''loyal'' Mdewakanton under Congress' definition and thus would receive the benefits of the Appropriations Acts, the Department of the Interior relied upon two censuses: The McLeod listing and the Henton listing. The McLeod listing was generated in 1886 by U.S. Special Agent Walter McLeod and listed all of the full-blood Mdewakantons remaining in Minnesota at the time. Under the Secretary's direction, on January 2, 1889, a supplementary census was taken by Robert B. Henton, Special Agent for the Bureau of Indian Affairs (''BIA''), of the Mdewakanton living in Minnesota since May 20, 1886. That listing included some mixed bloods. Together, these listings were used to distribute the benefits of the Appropriations Acts to those persons whose names appeared on the lists, and subsequently, to lineal descendants of those listed persons.

Over time, funds were generated by the use, sale and leasing of the 1886 lands, which were placed in Treasury trust fund accounts. Some of these funds were obtained from a transfer of a portion of the 1886 lands by the United States to the Upper Mississippi River Wildlife and Fish Refuge (''the Wabasha Land Transfer''). The remaining portion of the money, however, stemmed from Interior's policy of leasing or licensing 1886 lands for fair market value where no eligible Mdewakanton or lineal descendant was available for a land assignment. In 1975, the BIA performed a detailed accounting of all funds derived from the 1886 lands then held by the Treasury. After deduction of the Wabasha Land Transfer funds, the sum remaining attributable to the 1886 lands amounted to $60,464.02.

Pursuant to the Indian Reorganization Act of 1934, three Mdewakanton communities were formed in the three areas where the 1886 lands were located. The three communities are the Prairie Island Indian Community, the Shakopee Mdewakanton Sioux Community, and the Lower Sioux Indian Community. The enrolled membership of the three communities consists largely of lineal descendants of the Mdewakantons who were living in Minnesota in 1886, but some enrolled members are not descendants of the 1886 Mdewakantons, and many of the descendants of the 1886 Mdewakantons are not enrolled members of any of the three communities. Over time, the government purchased additional land for the Prairie Island and Lower Sioux communities. Those lands were regarded as reservation lands and as such were held in trust for those two communities. Prior to 1980, those reservation lands were treated as having a legally distinct status from the 1886 lands, even though parcels of the two classes of property were intermingled in the same areas within the geographical boundaries of the Prairie Island and Lower Sioux communities.

In 1980, Congress enacted legislation designed to give the three communities political control over all the property within the communities that had been set aside for Indians, including the 1886 lands. *See* Public Law 96–557, 94 Stat. 3262 (1980) (the ''1980 Act''). The 1980 Act provided that the 1886 lands, which ''were acquired and are now held by the United States for the use or benefit of certain Mdewakanton Sioux Indians'' under the Appropriations Acts, would henceforth be ''held by the United States * * * in trust for'' the three communities. *Id.* That legislation did not address the funds derived from the 1886 lands then being held by the Treasury. However, in 1981 and 1982 those funds were distributed to the three communities.

The Court of Federal Claims found that the transfer of monies derived from the 1886 lands to the three communities was not authorized by the 1980 statute, and that the ''loyal Mdewakantons'' referenced in the Appropriations Acts should have been the beneficiaries. As referenced above, the Department of the Interior is directed to determine which claimants are the proper beneficiaries of the Appropriations Acts, and who are therefore entitled to share in the judgment. This process also entails consideration of the various theories of recovery advanced by the plaintiffs in the court case in order to establish the proper criteria for determining the class of persons the Appropriations Acts were intended to benefit.

Various iterations have emerged as to how to define ''loyal Mdewakanton'' and how to determine the lineal descendants of such loyal Mdewakantons with respect to who should be the intended beneficiaries of the Appropriations Acts. The contentions fall into three general categories:

One iteration is that loyal Mdewakantons are limited to those individuals appearing on censuses carried out at the direction of the Secretary of the Interior in 1886 (the McLeod census) and 1889 (the Henton census) specifically to identify the intended beneficiaries of the Acts. The criteria specified in the Acts are Mdewakanton residing in Minnesota on May 20, 1886 (or who were in the process of removing there), and who had severed their tribal relations. As noted above, the 1890 Act made provisions to include both full and mixed blood Mdewakantons.

A second iteration goes beyond the McLeod and Henton censuses to define eligibility and would also rely on lists of individuals who were scouts, or who rescued whites, or who performed other meritorious services to aid the settlers during the uprising. This position is supported by the fact that legislation enacted in 1863 pertaining to Mdewakantons employed other standards. Those acts were not restricted to the Mdewakanton, and spoke of ''meritorious'' or ''friendly'' Indians who had ''exerted themselves'' to rescue the white settlers. This position would counsel toward the use of additional source documents that reflect individuals not listed in the 1886 and 1889 censuses who had been ''loyal'' or ''friendly'' and therefore in the class that Congress intended to benefit. These other sources might include:

1862 Indian Camp Census, Report No. 156 in *Report of U.S. Commissioner of Indian Affairs, 1863.* This list consists of the Sioux Indians and ''half-breeds'' under the surveillance of the U.S. military authorities at Camp Snelling, Minnesota during the winter of 1862. The list included the families of Indians accused of fomenting the uprising jailed at Davenport, Iowa; Indians who had been acquitted of responsibility, and a number of scouts.

Camp Release Census 1863, Stephen Riggs Family Papers, Box 1, Minnesota Historical Society. This census was of captives released to Colonel Sibley, which included 162 mixed bloods.

Congressional Globe, 37th Cong., 3D Session at 514. The *Globe* contains the transcription of a discussion on the floor of Congress on January 26, 1863, regarding the 1862 uprising. Correspondence from the Commissioner of Indian Affairs is introduced, containing a petition for assistance from Indians who had rescued whites in the uprising, and suffered ill-treatment from both whites and other Indians.

Sibley Sioux Scout List—1863 Sibley Expedition, May 28, 1863, Sibley Papers, Minnesota Historical Society Collections, 10:611. This list is of Indian scouts who were retained and recruited for the Sibley Expedition to pursue hostile Indians that left the State of Minnesota to escape any penalties for their participation in the 1862 uprising.

1866 Report of the Secretary of the Interior. This report, dated April 20, 1866, includes the names of individuals that deserve the ''gratitude of the American people for having been principally instrumental in saving the lives of white women and children during the late Indian war.''

Payroll to Soldiers and Scouts 1891–92 (S.H. Elrod Scout and Soldier List) (National Archives and Records Administration). This document is a listing of scouts for the United States military of Sioux descent during and subsequent to the uprising, who received per capita payments under Congressional appropriations in 1893 and 1895.

1891 Samuel Brown Scout List—Census. A list of the frontier Scout Force of Fort Wadsworth, Dakota Territory was found in the personal papers of Samuel Brown, who served there as an interpreter and the superintendent of government scouts. The list was apparently compiled for the distribution of back annuities for members of the Sioux tribe who had served as scouts in the Indian Wars, provided for in the Indian Appropriations Act of 1891.

A third iteration recognizes that ''mixed blood'' Mdewakantons were not included on the 1886 and 1889 censuses used to determine receipt of benefits under the Appropriations Acts, but these mixed bloods were specifically mentioned as beneficiaries in the 1890 Act. This position would counsel toward consideration of later censuses that were perhaps more likely to include mixed bloods and those who may not have been present for the 1886 and 1889 counts but were ''in the process of removing to Minnesota.'' Later enumerations of Mdewakanton in Minnesota include:

Birch Cooley Census of Mdewakanton Indians, Robert B. Henton, 1891–93, 1895–98.

Robert Henton was commissioned by the Secretary of the Interior to conduct the census of 1889 of Mdewakanton Indians in Minnesota. These subsequent lists of full and mixed-blood Mdewakantons at the Birch-Cooley Agency appear to be a continuation of his earlier work, given the inclusion of mixed-bloods as recipients of the 1890 Appropriations Act.

Census of Mdewakanton Sioux of Minnesota, James McLaughlin, 1899.

An 1899 letter from the Commissioner of the BIA references this census as a refinement of the earlier work done by Robert Henton to enumerate the Mdewakantons entitled to the benefits of the Appropriations Acts.

1917 Census of Mdewakanton Sioux Indians. This census was created by Interior as part of a Court of Claims judgment in favor of the Mdewakanton and Wahpekoota Band of Sioux Indians.

Proposed Finding on Criteria for a ''Loyal Mdewakanton'' Eligible To Receive an Award

The Appropriations Acts defined the loyal Mdewakantons and intended beneficiaries of the Act as (1) Indians in Minnesota, belonging to the Mdewakanton Band of Sioux Indians, (2) who resided in the state on May 20, 1886, or were in the process or removing to Minnesota, and (3) who have severed their tribal relations. A review of Interior Department memoranda, correspondence and administrative determinations dating from 1886 through 1982 shows these as the criteria consistently applied in making or evaluating assignments for the 1886 Lands. Because the funds that form the basis of the proceeds in this case derive from those lands, the same criteria should apply in determining who is eligible to share in any funds awarded pursuant to the judgment.

Over the 100 years between the 1880s to the 1980s, the Department of the Interior made official eligibility determinations for 1886 Land assignments, created various rolls of eligible individuals, and often issued

certificates to assignees. We adopt these documents as probative of eligibility for 1886 Land Assignments and proxy for membership in the group of intended beneficiaries of the Appropriations Acts. Documents which have previously been sanctioned by the Department for this purpose are:

(1) The 1886 McLeod Census

(2) The 1889 Henton Supplemental Census

(3) The 1917 McLaughlin Roll (with additional proof of Mdewakanton descent for persons appearing on that roll)

(4) Certificates assigning 1886 lands

We now add to this list of probative documents:

(5) the Birch Cooley Censuses prepared by Robert Henton; and

(6) the 1899 roll prepared by Inspector McLaughlin.

These additional rolls also were prepared at the direction of the Secretary of the Interior for the purpose of determining eligibility under the Appropriations Acts.

We determine that the class of persons eligible to participate in any final judgment of the Court of Federal Claims are those who can submit proof of descent from any individual listed on the documents adopted as probative above.

Dated: September 21, 2012.

Diane Rosen,

Midwest Regional Director.

[FR Doc. 2012–24120 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA 942000 L57000000 BX0000]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of lands described below are scheduled to be officially filed in the Bureau of Land Management California State Office, Sacramento, California, thirty (30) calendar days from the date of this publication.

ADDRESSES: A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

Protest: A person or party who wishes to protest a survey must file a notice that they wish to protest with the California State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way, Room W–1623, Sacramento, California 95825, (916) 978–4310.

SUPPLEMENTARY INFORMATION: These surveys were executed to meet the administrative needs of various federal agencies; the Bureau of Land Management, Bureau of Indian Affairs or Bureau of Reclamation. The lands surveyed are:

Mount Diablo Meridian, California

T. 35 N., R. 6 W., dependent resurvey and subdivision of sections accepted July 18, 2012.

T. 35 N., R. 7 W., dependent resurvey, subdivision, and metes-and-bounds survey accepted August 3, 2012.

T. 31 S., R. 32 E., amended plat of the dependent resurvey and metes-and-bounds survey accepted August 20, 2012.

T. 30 N., R 6 E., dependent resurvey and metes-and-bounds survey accepted September 12, 2012.

San Bernardino Meridian, California

T. 16 N., R. 14 E., supplemental plat of a metes-and-bounds parcel in sections 11, 12, 13, 14, and 23 accepted July 31, 2012.

T. 4 S., R. 4 E., supplemental plat of a portion of W½ SW¼ NW¼ section 24 accepted August 7, 2012.

T. 7 N., R. 29 W., dependent resurvey, subdivision, and metes-and-bounds survey accepted August 23, 2012.

Authority: 43 U.S.C. chapter 3.

Dated: September 14, 2012.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2012–24134 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN01000.L18200000.XZ0000]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Wednesday and Thursday, Nov. 14–15, 2012, at the Bureau of Land Management King Range Project Office, 768 Shelter Cove Rd., Whitethorn, Calif. On November 14, the council will convene at 11 a.m. and depart for a field tour of public lands in the King Range National Conservation Area. Members of the public are welcome. They must provide their own transportation, food and beverages. On November 15, the council meets from 8 a.m. to 2 p.m. at the King Range Project Office. Public comments will be accepted at 11 a.m.

FOR FURTHER INFORMATION CONTACT: Nancy Haug, BLM Northern California District manager, (530) 224–2160; or Joseph J. Fontana, public affairs officer, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting the RAC will discuss planning efforts for the Lost Coast Headlands and Lacks Creek areas of Humboldt County, discuss the preplanning process for an update of the Redding Field Office Resource Management Plan, hear information on marijuana eradication on BLM-managed public lands and discuss a work plan for assisting the BLM. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and meals. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 12, 2012.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 2012–24133 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN00000.L18200000.XZ0000]

Notice of Public Meeting: Northeast California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northeast California Resource Advisory Council will meet as indicated below.

DATES: The committee will meet Wednesday and Thursday, Nov. 7–8, 2012, in Alturas, California. On Nov. 7, the RAC will convene at 10 a.m. at the Bureau of Land Management Alturas Field Office, 708 W. 12th St., and depart immediately for a field tour. Members of the public are welcome. They must provide their own transportation in high clearance vehicles, food and beverages. On Nov. 8, the council meeting begins at 8 a.m. in the Conference Room of the BLM Alturas Field Office. The public is welcome.

FOR FURTHER INFORMATION CONTACT: Nancy Haug, BLM Northern California District manager, (530) 224–2160; or Joseph J. Fontana, BLM public affairs officer, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in northeast California and the northwest corner of Nevada. Agenda items at this meeting include an update on the Bly Tunnel at Eagle Lake, a status report on the proposed Horse Lake wind energy project, a status report on the BLM's sage grouse conservation strategy, updates on proposed wild horse gathers, a status report on management of the Surprise Field Office, a report on BLM acquisition of PG&E lands, a status report on proposed geothermal energy development proposals in the Medicine Lake Highlands, and an update on management decisions in the Homecamp grazing allotment. Public comments will be accepted at 11 a.m. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 12, 2012.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 2012–24124 Filed 9–28–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11225; 2200–1100–665]

Notice of Intent To Repatriate Cultural Items: Stanford University Archaeology Center, Stanford, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Stanford University Archaeology Center, in consultation with the appropriate Indian tribes, has determined that the cultural items meet the definition of sacred object and repatriation to the Indian tribes stated below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural items may contact the Stanford University Archaeology Center.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact the Stanford University Archaeology Center at the address below by October 31, 2012.

ADDRESSES: Laura Jones, Director, Heritage Services and University Archaeologist, Archaeology Center, 488 Escondido Mall, Stanford, CA 94305, telephone (650) 723–9664.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Stanford University Archaeology Center that meet the definition of sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Remains

Sometime prior to 1905, 44 cultural items were removed from an unknown location in Tulare County, CA. Stanford University's cofounder, Mrs. Jane Stanford, donated the cultural items to the Stanford Museum before her death in 1905. The sacred objects are 44 stone objects. Representatives from the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, identified the 44 stone objects as sacred objects during a consultation visit to Stanford University in August 2011.

The Santa Rosa Indian Community of the Santa Rosa Rancheria, California, has provided additional information regarding these cultural items to establish cultural affiliation to the Yokut tribes. Based on the site location and in accordance with the information received in the consultation process, the sacred objects are culturally affiliated with the Yokut communities represented by the present-day tribes of the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California.

Determinations Made by the Stanford University Archaeology Center

Officials of the Stanford University Archaeology Center have determined that:

- Pursuant to 25 U.S.C. 3001(3) (C), the 44 cultural items described above are specific ceremonial objects needed by traditional Native American Religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the sacred objects should contact Laura Jones, Director, Heritage Services and University Archaeologist, Archaeology Center, 488 Escondido Mall, Stanford, CA 94305, telephone (650) 723–9664 before October 31, 2012. Repatriation of the sacred objects to the Picayune Rancheria of Chukchansi

Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California, may proceed after that date if no additional claimants come forward.

The Stanford University Archaeology Center is responsible for notifying the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California, that this notice has been published.

Dated: September 5, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–24090 Filed 9–28–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11193; 2200–1100–665]

Notice of Inventory Completion: San Francisco State University, Department of Anthropology, San Francisco, CA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the San Francisco State University, NAGPRA Program (formerly in the Department of Anthropology). The human remains and associated funerary objects were removed from Marin County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (73 FR 30156–30158, May 23, 2008).

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph four is corrected by substituting the following paragraph:

From 1980 to 1985, human remains representing a minimum of 11 individuals were removed from CA–MRN–17, De Silva Island, Richardson Bay, Marin County, CA, by San Francisco State University staff under the direction of Gary Pahl. Materials from the excavations were jointly curated by San Francisco State University and Sonoma State University Anthropological Studies Center until 1998, when all excavated materials from site CA–MRN–17 were transferred to San Francisco State University. No known individuals were identified. The 175 associated funerary objects are 21 obsidian flaked stone tools, 9 pieces of obsidian debitage, 5 chert flaked stone tools, 27 pieces of chert debitage, 15 ground stone tools, 75 bone tools, 1 basalt flake, 1 granite tool, 1 schist tool, 2 steatite ear plugs, 1 ceramic fragment, 1 bone bead, 1 olivella bead, 1 individual and 1 lot of abalone pendants, 1 clam shell fragment, 2 charmstones, 2 quartz crystals, 1 cupule rock, 2 pieces of ochre, and 6 lots of carbon samples.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph five, sentence two is corrected by substituting the following sentence:

The 11 individuals described above were found in four burials along with one set of remains with no provenience.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph eight is corrected by substituting the following paragraph:

Between 1969 and 1971, human remains representing a minimum of 19 individuals were removed from the Miller Creek Site (CA–MRN–138), Marin County, CA, by San Francisco State University staff under the direction of Charles Slaymaker and Michael Moratto. No known individuals were identified. The 247 associated funerary objects are 128 bone tools, 78 obsidian tools, 18 chert tools, 7 ground stone tools, 5 shell beads, 1 shell adornment, 2 stone adornments, 2 sting ray barbs, 1 shell tool, 4 lots of red ochre, and 1 glass object.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph 10, sentence one is corrected by substituting the following paragraph:

Between 1972 and 1975, human remains representing a minimum of two individuals were removed from the Pacheco Valle site (CA–MRN–152), Marin County, CA, during excavations conducted by the University of San Francisco, College of Marin, and Miwok Archaeological Preserve of Marin, CA, according to San Francisco State University Department of Anthropology records.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008], paragraph 14 is corrected by substituting the following paragraph:

In 1968, human remains representing a minimum of three individuals were removed from the Pacific Telephone site (CA–MRN–168), Marin County, CA, by San Francisco State University staff under the direction of Charles Slaymaker. No known individuals were identified. The five associated funerary objects are 3 lots of botanical remains and 2 charmstones.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph 16 is corrected by substituting the following paragraph:

Between 1970 and 1972, human remains representing a minimum of 61 individuals were removed from the Ignacio site (CA–MRN–170), Marin County, CA, by San Francisco State University staff under the direction of Charles Slaymaker and Michael Moratto. No known individuals were identified. The 1,124 funerary objects are 932 olivella and clam shell beads, 1 steatite bead, 39 obsidian tools, 21 chert tools, 90 bone tools, 1 shell tool, 3 shell pendants, 3 stone pendants, 21 ground stone, 4 charmstones, 1 steatite ear plug, 1 bear claw, 1 piece of red ochre, 2 clay figurines, 1 mussel spoon, 1 pigment mortar, 1 baked clay object, and 1 bone artifact with red ochre.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph 22 is corrected by substituting the following paragraph:

Between 1961 and 1968, human remains representing a minimum of 27 individuals were removed from the Preston Point site (CA–MRN–396), Marin County, CA, by W. Beason, Sacramento State University; Ward Upson, Santa Rosa Junior College, Santa Rosa, CA; and Mrs. Agnes Gerkin of Sacramento, CA. The burials excavated by Ward Upson were curated at San Francisco State University, except for two bones which were curated at the Anthropological Studies Center, California State University, Sonoma, CA. The burials excavated by W. Beason and Mrs. Gerkin, along with the funerary objects excavated by Ward Upson, were curated at the Anthropological Studies Center, California State University, Sonoma, CA. Possession and control of all materials from site CA–MRN–396 at the Anthropological Studies Center was transferred to San Francisco State University in 1998. No known individuals were identified. The 785 funerary objects are 17 ground stone tools, 11 bone tools, 21 obsidian tools, 3 chert tools, 723 beads and bead fragments, 2 charmstone fragments, 4 steatite pendants and adornments, 1 hairpin, 1 smoking pipe fragment, 1 quartz crystal, and 1 bag of ochre and dirt.

In the **Federal Register** (73 FR 30156–30158, May 23, 2008), paragraph 29, sentences one and two are corrected by substituting the following sentences:

Officials of San Francisco State University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 143 individuals of Native American ancestry. Officials of the San Francisco State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 2,349

objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Jeffrey Boland Fentress, San Francisco State University NAGPRA Program, c/o Department of Anthropology, San Francisco State University, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338–3075, before October 31, 2012. Repatriation of the human remains and associated funerary objects to the Federated Indians of Graton Rancheria, California, may proceed after that date if no additional claimants come forward.

The San Francisco State University NAGPRA Program is responsible for notifying the Federated Indians of Graton Rancheria, California, that this notice has been published.

Dated: August 30, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–24091 Filed 9–28–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CACO–11279; 1730–SZM]

Notice of November 14, 2012, Meeting for Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets forth the date of the Two Hundred Eighty-Sixth Meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The public meeting of the Cape Cod National Seashore Advisory Commission will be held on Wednesday, November 14, 2012, at 1 p.m. (Eastern).

ADDRESSES: The Commission members will meet in the meeting room at Headquarters, 99 Marconi Site Road, Wellfleet, Massachusetts 02667.

Agenda

The November 14, 2012, Commission meeting will consist of the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (September 10, 2012)
3. Reports of Officers
4. Reports of Subcommittees
5. Superintendent's Report
   - Update on Dune Shacks
   - Improved Properties/Town Bylaws
   - Herring River Wetland Restoration
   - Wind Turbines/Cell Towers
   - Shorebird Management Planning
   - Highlands Center Update
   - Alternate Transportation funding
   - Ocean stewardship topics—shoreline change
   - Herring Cove Beach/revetment
   - Climate Friendly Parks
6. Old Business
   - National Seashore Law Enforcement Policies
7. New Business
8. Date and agenda for next meeting
9. Public comment and
10. Adjournment

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667, at (508) 771–2144.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members. Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent 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: September 14, 2012.

George E. Price, Jr.,

Superintendent, Cape Cod National Seashore.

[FR Doc. 2012–24126 Filed 9–28–12; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–929–931 (Second Review)]

Silicomanganese From India, Kazakhstan, and Venezuela; Institution of Five-Year Reviews Concerning the Antidumping Duty Orders on Silicomanganese From India, Kazakhstan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is October 31, 2012. Comments on the adequacy of responses may be filed with the Commission by December 14, 2012. For further information concerning the conduct of these reviews 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–276, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On May 23, 2002, the Department of Commerce issued antidumping duty orders on imports of silicomanganese from India, Kazakhstan, and Venezuela (67 FR 36149). Following the five-year reviews by Commerce and the Commission, effective November 30, 2007, Commerce issued a continuation of the antidumping duty orders on imports of silicomanganese from India, Kazakhstan, and Venezuela (73 FR 841, January 4, 2008). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are India, Kazakhstan, and Venezuela.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its expedited first five-year review determinations, the Commission found a single *Domestic Like Product* consisting of all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its expedited first five-year review determinations, the Commission found a single *Domestic Industry* consisting of all domestic producers of silicomanganese, except low-carbon silicomanganese.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews 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 reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C.207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 31, 2012. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 14, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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 FR 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.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2006.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2011, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for

downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Countries* after 2006, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Countries,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 24, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–23794 Filed 9–28–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–919 (Second Review)]

Certain Welded Large Diameter Line Pipe From Japan; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Certain Welded Large Diameter Line Pipe From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on certain welded large diameter line pipe from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is October 31, 2012. Comments on the adequacy of responses may be filed with the Commission by December 14, 2012. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On December 6, 2001, the Department of Commerce issued an antidumping duty order on imports of welded large diameter line pipe from Japan (66 FR 63368). Following the five-year reviews by Commerce and the Commission, effective November 5, 2007, Commerce issued a continuation of the antidumping duty order on imports of certain welded large diameter line pipe from Japan (72 FR 62435). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its full first five-year review, the Commission found a single *Domestic Like Product* consisting of certain welded large diameter line pipe, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its full first five-year review, the Commission found a single *Domestic Industry* consisting of all domestic producers of certain welded large diameter line pipe.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–277, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review 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 review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 31, 2012. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is December 14, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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 FR 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.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2006.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise*

(including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2011, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2006, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 24, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–23793 Filed 9–28–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–932 (Second Review)]

Certain Folding Metal Tables and Chairs From China; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Certain Folding Metal Tables and Chairs From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on certain folding metal tables and chairs from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting

the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is October 31, 2012. Comments on the adequacy of responses may be filed with the Commission by December 14, 2012. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: *Background.* On June 27, 2002, the Department of Commerce issued an antidumping duty order on imports of certain folding metal tables and chairs from China (67 FR 43277). Following the five-year reviews by Commerce and the Commission, effective November 6, 2007, Commerce issued a continuation of the antidumping duty order on imports of certain folding metal tables and chairs from China (72 FR 62626). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original investigation and its expedited first five-year review, the Commission found two *Domestic Like Products* consisting of certain folding metal chairs and certain folding metal tables, which, considered together, were coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first five-year review, the Commission defined the *Domestic Industry* for folding metal chairs to include all producers of folding metal chairs in the United States, and the *Domestic Industry* for certain folding metal tables to include all producers of certain folding metal tables in the United States.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review 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 review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–275, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

this notice must provide the information specified below. The deadline for filing such responses is October 31, 2012. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is December 14, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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 FR 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*. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: Please provide the requested information separately for each *Domestic Like Product,* as defined by the Commission in its determinations, and for each of the products identified by Commerce as *Subject Merchandise.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2006.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2011, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company

transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2006, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 24, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–23801 Filed 9–28–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Optoelectronic Devices for Fiber Optic Communications, Components Thereof, and Products Containing Same,* DN 2916 the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Avago Technologies Fiber IP (Singapore) Pte. Ltd., Avago Technologies General IP (Singapore) Pte. Ltd. and Avago Technologies U.S. Inc. on September 25, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain optoelectronic devices for fiber optic communications, components thereof, and products containing the same. The complaint names as respondents Iptronics A/S of Denmark, Iptronics Inc. of Menlo Park, CA, FCI USA LLC of Etters, PA, FCI Deutschland Gmbh of Germany, FCI SA of France, Mellanox Technologies, Inc. of Sunnyvale, CA and Mellanox Technologies, Ltd. of Israel.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested

exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.4(f)). Submissions should refer to the docket number (''Docket No. 2916'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: September 25, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–24030 Filed 9–28–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–895 (Second Review)]

Pure Magnesium (Granular) From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on pure magnesium (granular) from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on February 1, 2012 (77 FR 5049) and determined on May 7, 2012 that it would conduct an expedited review (77 FR 32668, June 1, 2012).

The Commission transmitted its determination in this review to the Secretary of Commerce on September 25, 2012. The views of the Commission are contained in USITC Publication 4350 (September 2012), entitled *Pure Magnesium (Granular) from China: Investigation No.731–TA–895 (Second Review).*

Issued: September 25, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–24031 Filed 9–28–12; 8:45 am]

BILLING CODE 7020–02–P

[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] Commissioner Dean A. Pinkert and Commissioner Meredith Broadbent did not participate in this five-year review.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on October 19, 2012, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at Towers Watson, 800 Boylston St., Boston, MA 02199.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 202–622–8225.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Towers Watson, 800 Boylston St., Boston, MA, on October 19, 2012, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: September 25, 2012.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2012–23977 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0010]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Application To Transport Interstate or Temporarily Export Certain National Firearms Act Firearms

Correction

In notice document 2012–23465, appearing on page 58869 in the issue of Monday, September 24, 2012, make the following correction:

1. On page 58869, in the second column, in the first full paragraph, on the thirteenth line, the entry ''December 24, 2012'' should read ''November 23, 2012''.

[FR Doc. C1–2012–23465 Filed 9–28–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–365]

Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Established Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2013

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice.

SUMMARY: This notice establishes the initial 2013 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act (CSA) and assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: John W. Partridge, Executive Assistant, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone: (202) 307–4654.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. This responsibility has been delegated to the Administrator of the DEA by 28 CFR 0.100. The Administrator, in turn, has redelegated this function to the Deputy Administrator pursuant to 28 CFR 0.104.

The 2013 aggregate production quotas and assessment of annual needs represent those quantities of schedule I and II controlled substances and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured in the United States in 2013 to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks. These quotas include imports of ephedrine, pseudoephedrine, and phenylpropanolamine but do not include imports of controlled substances for use in industrial processes.

On August 3, 2012, a notice titled, ''Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Proposed Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2013,'' was published in the **Federal Register** (77 FR 46519). That notice proposed the 2013 aggregate production quotas for each basic class of controlled substance listed in schedules I and II and the 2013 assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. All interested persons were invited to comment on or object to the proposed aggregate production quotas and the proposed assessment of annual needs on or before September 4, 2012.

Five comments (four from DEA-registered manufacturers and one from a non-registrant) were received within the published comment period, offering comments on a total of 20 schedule I and II controlled substances and one list I chemical. Commenters stated that the proposed aggregate production quotas for amphetamine (for conversion), amphetamine (for sale), codeine (for conversion), codeine (for sale), gamma hydroxybutyric acid, hydrocodone (for sale), hydromorphone, lisdexamfetamine, meperidine, methamphetamine, methylphenidate, morphine (for conversion), morphine (for sale), noroxymorphone (for conversion), oripavine, oxycodone (for sale), oxymorphone (for conversion), oxymorphone (for sale), remifentanil, and sufentanil were insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, export requirements, and the establishment and maintenance of reserve stocks. One commenter stated that the proposed assessment of annual needs quota for phenylpropanolamine (for conversion) was insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, export requirements, and the establishment and maintenance of reserve stocks.

In determining the 2013 aggregate production quotas and assessment of annual needs, DEA has taken into consideration the above comments along with the factors set forth at 21 CFR 1303.11 and 21 CFR 1315.11, in accordance with 21 U.S.C. 826(a), and other relevant factors, including the consideration of 2012 manufacturing quotas, current 2012 sales and inventories, 2013 export requirements, industrial use, additional applications for quotas, as well as information on research and product development requirements. Based on this information, DEA has determined that adjustments to the proposed aggregate production quotas and assessment of annual needs for 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4,methylenedioxypyrovalerone (MDPV), 4-methyl-N-methylcathinone (mephedrone), N-benzylpiperazine, amphetamine (for conversion), amphetamine (for sale), hydrocodone (for sale), hydromorphone, lisdexamfetamine, methylphenidate, morphine (for sale), oxycodone (for sale), oxymorphone (for conversion), remifentanil, sufentanil, tapentadol, ephedrine (for conversion), ephedrine (for sale), phenylpropanolamine (for sale), and pseudoephedrine (for sale) are warranted. This notice reflects those adjustments.

Regarding codeine (for conversion), codeine (for sale), gamma hydroxybutyric acid, meperidine, methamphetamine, morphine (for conversion), noroxymorphone (for conversion), oripavine, oxymorphone (for sale), and phenylpropanolamine (for conversion), DEA has determined that the proposed initial 2013 aggregate production quotas and assessment of annual needs are sufficient to meet the current 2013 estimated medical, scientific, research, and industrial needs of the United States. This notice finalizes these aggregate production quotas at the same amounts as proposed.

DEA also specifically considered that inventory allowances granted to individual manufacturers may not always result in the availability of sufficient quantities to maintain an adequate reserve stock pursuant to 21 U.S.C. 826(a), as intended. See 21 CFR 1303.24. This would be concerning if a natural disaster or other unforeseen event resulted in substantial disruption to the amount of controlled substances available to provide for legitimate public need. As such, DEA included in all schedule II aggregate production quotas, and certain schedule I aggregate production quotas, an additional 25% of the estimated medical, scientific, and research needs as part of the amount necessary to ensure the establishment and maintenance of reserve stocks. The established aggregate production quotas reflect these included amounts. This action will not affect the ability of manufacturers to maintain inventory allowances as specified by regulation. DEA expects that maintaining this reserve in certain established aggregate production quotas will mitigate adverse public effects if an unforeseen event resulted in substantial disruption to the amount of controlled substances available to provide for legitimate

public need, as determined by DEA. DEA does not anticipate utilizing the reserve in the absence of these circumstances.

In accordance with 21 U.S.C. 826, 21 CFR 1303.11, and 21 CFR 1315.11, the Deputy Administrator hereby establishes the 2013 aggregate production quotas for the following schedule I and II controlled substances and the 2013 assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in grams of anhydrous acid or base, as follows:

Basic class	Established 2013 quotas
Schedule I	
1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201)	45 g
1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694)	45 g
1-[1-(2-Thienyl)cyclohexyl]piperidine	5 g
1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200)	45 g
1-Butyl-3-(1-naphthoyl)indole (JWH–073)	45 g
1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR–18 and RCS–8)	45 g
1-Hexyl-3-(1-naphthoyl)indole (JWH–019)	45 g
1-Methyl-4-phenyl-4-propionoxypiperidine	2 g
1-Pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678)	45 g
1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH–203)	45 g
1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250)	45 g
1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398)	45 g
1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122)	45 g
1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19, RCS–4)	45 g
1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081)	45 g
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P)	15 g
2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E)	15 g
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D)	15 g
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N)	15 g
2-(2,5-Dimethoxyphenyl)ethanamine (2C–H)	15 g
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C)	15 g
2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I)	15 g
2,5-Dimethoxy-4-ethylamphetamine (DOET)	12 g
2,5-Dimethoxy-4-n-propylthiophenethylamine	12 g
2,5-Dimethoxyamphetamine	12 g
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2)	15 g
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4)	15 g
3,4,5-Trimethoxyamphetamine	12 g
3,4-Methylenedioxyamphetamine (MDA)	30 g
3,4-Methylenedioxymethamphetamine (MDMA)	35 g
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	24 g
3,4-Methylenedioxy-N-methylcathinone (methylone)	35 g
3,4-Methylenedioxypyrovalerone (MDPV)	25 g
3-Methylfentanyl	2 g
3-Methylthiofentanyl	2 g
4-Bromo-2,5-dimethoxyamphetamine (DOB)	12 g
4-Bromo-2,5-dimethoxyphenethylamine (2–CB)	12 g
4-Methoxyamphetamine	88 g
4-Methyl-2,5-dimethoxyamphetamine (DOM)	12 g
4-Methylaminorex	12 g
4-Methyl-N-methylcathinone (mephedrone)	25 g
5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol	68 g
5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47, 497 C8-homolog)	53 g
5-Methoxy-3,4-methylenedioxyamphetamine	12 g
5-Methoxy-N,N-diisopropyltryptamine	12 g
5-Methoxy-N,N-dimethyltryptamine	10 g
Acetyl-alpha-methylfentanyl	2 g
Acetyldihydrocodeine	2 g
Acetylmethadol	2 g
Allylprodine	2 g
Alphacetylmethadol	2 g
Alpha-ethyltryptamine	12 g
Alphameprodine	2 g
Alphamethadol	2 g
Alpha-methylfentanyl	2 g
Alpha-methylthiofentanyl	2 g
Alpha-methyltryptamine (AMT)	12 g
Aminorex	12 g
Benzylmorphine	2 g
Betacetylmethadol	2 g
Beta-hydroxy-3-methylfentanyl	2 g
Beta-hydroxyfentanyl	2 g
Betameprodine	2 g
Betamethadol	2 g

Basic class	Established 2013 quotas
Betaprodine	2 g
Bufotenine	3 g
Cathinone	12 g
Codeine-N-oxide	602 g
Desomorphine	5 g
Diethyltryptamine	12 g
Difenoxin	50 g
Dihydromorphine	3,300,000 g
Dimethyltryptamine	18 g
Gamma-hydroxybutyric acid	46,250,000 g
Heroin	25 g
Hydromorphinol	54 g
Hydroxypethidine	2 g
Ibogaine	5 g
Lysergic acid diethylamide (LSD)	30 g
Marihuana	21,000 g
Mescaline	13 g
Methaqualone	10 g
Methcathinone	14 g
Methyldihydromorphine	2 g
Morphine-N-oxide	655 g
N,N-Dimethylamphetamine	12 g
N-Benzylpiperazine	15 g
N-Ethylamphetamine	12 g
N-Hydroxy-3,4-methylenedioxyamphetamine	12 g
Noracymethadol	2 g
Norlevorphanol	52 g
Normethadone	2 g
Normorphine	18 g
Para-fluorofentanyl	2 g
Phenomorphan	2 g
Pholcodine	2 g
Properidine	2 g
Psilocybin	2 g
Psilocyn	4 g
Tetrahydrocannabinols	491,000 g
Thiofentanyl	2 g
Tilidine	10 g
Trimeperidine	2 g
Schedule II	
1-Phenylcyclohexylamine	3 g
1-Piperdinocyclohexanecarbonitrile	21 g
4-Anilino-N-phenethyl-4-piperidine (ANPP)	2,250,000 g
Alfentanil	38,250 g
Alphaprodine	3 g
Amobarbital	9 g
Amphetamine (for conversion)	22,875,000 g
Amphetamine (for sale)	42,625,000 g
Carfentanil	6 g
Cocaine	240,000 g
Codeine (for conversion)	81,250,000 g
Codeine (for sale)	49,506,250 g
Dextropropoxyphene	19 g
Dihydrocodeine	250,000 g
Diphenoxylate	750,000 g
Ecgonine	127,500 g
Ethylmorphine	3 g
Fentanyl	2,108,750 g
Glutethimide	3 g
Hydrocodone (for sale)	99,625,000 g
Hydromorphone	5,968,750 g
Isomethadone	5 g
Levo-alphacetylmethadol (LAAM)	4 g
Levomethorphan	6 g
Levorphanol	4,500 g
Lisdexamfetamine	21,000,000 g
Meperidine	6,875,000 g
Meperidine Intermediate-A	6 g
Meperidine Intermediate-B	11 g
Meperidine Intermediate-C	6 g
Metazocine	6 g

Basic class	Established 2013 quotas
Methadone (for sale)	25,000,000 g
Methadone Intermediate	32,500,000 g
Methamphetamine	3,912,500 g
[987,500 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 2,863,750 grams for methamphetamine mostly for conversion to a schedule III product; and 61,250 grams for methamphetamine (for sale)].	
Methylphenidate	80,750,000 g
Morphine (for conversion)	103,750,000 g
Morphine (for sale)	60,250,000 g
Nabilone	25,628 g
Noroxymorphone (for conversion)	9,000,000 g
Noroxymorphone (for sale)	508,750 g
Opium (powder)	91,250 g
Opium (tincture)	1,287,500 g
Oripavine	22,750,000 g
Oxycodone (for conversion)	10,250,000 g
Oxycodone (for sale)	131,500,000 g
Oxymorphone (for conversion)	18,375,000 g
Oxymorphone (for sale)	6,875,000 g
Pentobarbital	42,500,000 g
Phenazocine	6 g
Phencyclidine	30 g
Phenmetrazine	3 g
Phenylacetone	20,000,000 g
Racemethorphan	3 g
Remifentanil	3,750 g
Secobarbital	215,003 g
Sufentanil	6,255 g
Tapentadol	13,750,000 g
Thebaine	145,000,000 g
List I Chemicals	
Ephedrine (for conversion)	15,100,000 g
Ephedrine (for sale)	3,500,000 g
Phenylpropanolamine (for conversion)	25,700,000 g
Phenylpropanolamine (for sale)	6,100,000 g
Pseudoephedrine (for sale)	225,000,000 g

The Deputy Administrator also establishes aggregate production quotas for all other schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 at zero. Pursuant to 21 CFR 1303.13 and 21 CFR 1315.13, upon consideration of the relevant factors, the Deputy Administrator may adjust the 2013 aggregate production quotas and assessment of annual needs as needed.

Dated: September 25, 2012.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2012–24089 Filed 9–28–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,791]

Fasco, a Division of Regal Beloit Corporation, Including On-Site Leased Workers From Penmac Personnel Services, Eldon, MI; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 30, 2012, workers requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Fasco, a division of Regal Beloit Corporation, Eldon, Missouri (Fasco). The determination was issued on August 7, 2012. The Department's Notice of determination was published in the **Federal Register** on August 23, 2012 (77 FR 51066).

Fasco is a warehouse and distribution center for electric motors. The subject worker group includes workers engaged in activities related to the supply of warehousing and distribution of electric motors, as well as engineering, customer service and information technology services. The worker group includes on-site leased workers from Penmac Personnel Services.

The initial investigation resulted in a negative determination based on the findings that there were no shifts to/acquisition from a foreign country by Fasco in the supply of services like or directly competitive with those supplied by the subject workers; that there were no increased imports of services like or directly competitive with those supplied by the subject workers; that Fasco is neither a Supplier to nor a Downstream Producer of a firm that employed a worker group eligible to apply for TAA; and that the workers of Fasco have not met the criteria set forth in Section 222(e) of the Trade Act, as amended.

The request for reconsideration states that workers of the Engineering Services Department provide engineering

services to both ''the Fasco division'' and the ''Fort Wayne Genteq division'' of Regal Beloit Corporation. Support material provided by the workers alleges that services supplied by the Engineering Services Department in support of production in Mexico are shifting to Mexico and that requisition engineering work is shifting to India.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to clarify the subject worker group and to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 14th day of September, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24056 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Affirmative Determination Regarding Application for Reconsideration

[TA–W–81,145], Sunoco, Inc., R&M, Refining Division, 100 Green Street, Marcus Hook, Pennsylvania.

[TA–W–81,145A], Sunoco, Inc., 10 Industrial Hwy, MS4 Building G, Lester, Pennsylvania.

[TA–W–81,145B], Sunoco, Inc., 3144 Passyunk Avenue, Philadelphia, Pennsylvania.

On its own action, the Department of Labor will conduct a review of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Sunoco, Inc., Refining Division, Marcus Hook, Pennsylvania (TA–W–81,145), Sunoco, Inc., Lester, Pennsylvania (TA–W–81,145A), and Sunoco, Inc., Philadelphia, Pennsylvania (TA–W–81,145B).

Previously-issued determinations did not include the worker group located at 3144 Passyunk Avenue, Philadelphia, Pennsylvania (TA–W–81,145B).

The Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the record, I conclude that there is sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 14th day of September 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24058 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Placement Verification and Follow-Up of Job Corps Participants; Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Department of 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 extension of data collection regarding the Placement Verification and Follow-up of Job Corps Participants, using post-center surveys of Job Corps graduates and former enrollees (OMB Control Number 1205–0426), which expires November 30, 2012.

A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 30, 2012.

ADDRESSES: Submit written comments to Lawrence Lyford, Office of Job Corps, Room N–4507, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3121(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 877–889–5627 (TTY/TDD). Fax: 202–693–3113. Email: *lyford.lawrence@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Job Corps is an intensive, residential training program for at-risk youth ages 16 through 24. It addresses multiple barriers to employment faced by youth throughout the United States. Job Corps is authorized by Title I, Subtitle C, of the Workforce Investment Act (WIA) of 1998. The program is principally carried out through a nationwide network of 125 Job Corps centers. The centers are located at facilities either owned or leased by the federal government.

The Department has a direct role in the operation of Job Corps, and does not serve as a pass-through agency for this program. It is the Department's responsibility to establish Job Corps centers and to select operators for them. Of the 125 current centers, 28 are operated by the United States Department of Agriculture, through an interagency agreement. The remaining 97 centers are managed and operated by large and small corporations, and nonprofit organizations selected by the Department in accordance with the Federal Acquisition Regulations, and in most cases, through a competitive procurement process. Many of the current contractors manage and operate more than one center.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for an agency to properly performs its functions, including whether the information will have practical utility;
- Evaluate the agency's accuracy in estimating 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 information collection on those who are to respond—including that obtained through 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

This submission requests comments on three primary and two secondary data collection instruments that will be used to collect follow-up data about individuals who are no longer actively participating in Job Corps. These youths either graduated from Job Corps or stayed in the program at least 60 days but left before completing graduation requirements (former enrollees). These data collection activities will be conducted with the following groups of recent Job Corps participants:

• Former enrollees who were placed in a job or school program; this group will be contacted 90 days after separation.

• Graduates who were placed in a job or school program; this group will be contacted 90 days after initial placement;

• Graduates who were placed in a job or school program; this group will be contacted 6 months after initial placement;

• Graduates who were placed in a job or school program; this group will be contacted 12 months after initial placement.

The data collection instrument for graduates 90 to 120 days after their initial placement is called Interim Checkpoint for Eligibility (ICFE). Administration of the ICFE at this time will facilitate the key data collection at 6 and 12 months. This submission also requests approval for two brief questionnaires (one for employers and one for schools or training institutions) that will be used to collect re-verification data about initial placement for the subset of placed graduates and former enrollees that cannot be contacted directly.

To maximize the comparability of the data collected from the different subgroups of students, the ICFE, the 90-day follow-up for former enrollees, and the 6-month and 12-month follow-up sections of the data collection instruments use modules with identical sets of questions on the same topics.

The questions are designed to obtain:

• Data to re-verify the initial job or school placements of placed graduates and former enrollees (only in the instruments administered at 90 days and the ICFE).

• Information about employment experiences in the previous week.

• Information about educational experiences in the previous week.

• Summary information about the work, school, and job search activities of those who were neither working nor in school the previous week.

• Information about satisfaction with the services provided by Job Corps.

Type of Review: Extension without changes.

Title: Placement Verification and Follow-up of Job Corps Participants.

OMB Number: 1205–0426.

Affected Public: Individuals or households and Business/Education for profit institutions.

Total Annual Burden Cost for Respondents: N/A.

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response (hours)	Burden hours
Placed Former Enrollees at 90 days	1,596	1	1,596	0.25	399
Placed graduates at 90–120 days	16,924	1	16,924	0.25	4,231
Placed Graduates at Six Months	16,098	1	16,098	0.20	3,220
Placed Graduates at 12 Months	13,660		13,660	0.20	2,732
Employer/Institution Re-verification	5,045	1	5,045	0.17	858
Total	53,323		53,323		11,440

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Signed in Washington, DC, this 24th day of September, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–24084 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,558]

Healthcare Corporation of America (HCA), HCA Mountain Division Including Workers Whose Wages Were Reported Through Mountainstar Health, Inc. Including Workers Whose Wages Were Reported Through Health Trust Utah Management Services, Inc. Cottonwood Heights, UT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 3, 2012, applicable to workers of Healthcare Corporation of America (HCA), HCA Mountain Division, Cottonwood Heights, Utah (subject firm). The workers' firm is engaged in activities related to the supply of medical transcription services. The subject worker group includes workers whose wages are reported through MountainStar Health, Inc. and off-site workers who report to Cottonwood Heights, Colorado.

At the request of the State of Utah, the Department reviewed the certification for workers of the subject firm.

New information revealed that some workers separated from the subject firm had wages reported under the company name Health Trust Utah Management Services, Inc.

The amended notice applicable to TA–W–81,558 is hereby issued as follows:

All workers of Healthcare Corporation of America (HCA), HCA Mountain Division, including workers whose wages are reported through MountainStar Health, Inc., and including workers whose wages are reported

through Health Trust Utah Management Services, Inc., Cottonwood Heights, Utah, who became totally or partially separated from employment on or after April 30, 2011 through August 3, 2014, and all workers in the group threatened with total or partial separation from employment on August 3, 2012 through August 3, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 18th day of September 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24059 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,751]

General Motors Vehicle Manufacturing Including On-Site Leased Workers from Aerotek, Kelly Services, Voith Industrial Services, Shreveport Ramp Services, Dana Holding Corporation, The Landing of GM, Filtration Services Group, BASF, G4s Secure Coalition, Seibert Powder Coating, Advantis Occupational Health, Veolis ES Industrial Services, Inc., and Automotive Quality Associates Shreveport, LA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 3, 2012, applicable to workers of General Motors Vehicle Manufacturing, including on-site leased workers from Aerotek, Kelly Services, Voith Industrial Services, Shreveport Ramp Services, Dana Holding Corporation, The Landing of GM, Filtration Services Group, BASF, G4S Secure Services, Seibert Powder Coating, and Advantis Occupational Health, Shreveport, Louisiana (subject firm).

The workers' firm is engaged in activities related to the production of pick-up trucks.

Based on information provided in later-filed Trade Adjustment Assistance (TAA) petitions, the Department reviewed the certification for workers of the subject firm.

New information from the company shows that workers leased from Veolia ES Industrial Services, Inc. and Automotive Quality Associates were sufficiently under the control of General Motors Vehicle Manufacturing, Shreveport, Louisiana, to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of pick-up trucks.

Based on these findings, the Department is amending this certification to include workers leased from Veolia ES Industrial Services, Inc. and Automotive Quality Associates working on-site at the subject firm. The amended notice applicable to TA–W–81,751 is hereby issued as follows:

All workers of General Motors Vehicle Manufacturing, including on-site leased workers from Aerotek, Kelly Services, Voith Industrial Services, Shreveport Ramp Services, Dana Holding Corporation, The Landing of GM, Filtration Services Group, BASF, G4S Secure Services, Seibert Powder Coating, Advantis Occupational Health, Veolia ES Industrial Services, Inc. and Automotive Quality Associates, Shreveport, Louisiana, who became totally or partially separated from employment on or after July 28, 2012, through August 3, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of September, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24061 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,663]

Johnson Controls Including Workers Whose Wages Were Reported Under IMECO LLC; North American Refrigeration Dixon, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor (Department) issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 2009 applicable to workers and former workers of Johnson Controls, North American Refrigeration, Dixon, Illinois (subject firm). The workers were engaged in activities related to the production of air handling products such as evaporators, condensers, hygienic air handlers, cooling towers, and fluid coolers. Workers were not separately identifiable by article produced.

At the request of the State of Illinois, the Department reviewed the certification for workers of the subject firm. New information revealed that workers separated from the subject firm had wages reported under the name Imeco LLC.

The amended notice applicable to TA–W–71,663 is hereby issued as follows:

All workers of Johnson Controls, including workers whose wages were reported under Imeco LLC, North American Refrigeration, Dixon, Illinois, who became totally or partially separated from employment on or after July 14, 2008, through July 27, 2011, and all workers in the group threatened with total or partial separation from employment on July 27, 2009 through July 27, 2011, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 18th day of September, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24057 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Announcement Regarding a Change in Eligibility for Unemployment Insurance (UI) Claimants in New York in the Emergency Unemployment Compensation 2008 (EUC08) Program and the Federal-State Extended Benefits (EB) Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Announcement regarding a change in eligibility for Unemployment Insurance (UI) claimants in New York in the Emergency Unemployment Compensation 2008 (EUC08) Program and the Federal-State Extended Benefits (EB) Program.

The U.S. Department of Labor (Department) produces trigger notices indicating which states qualify for both EB and EUC08 benefits, and provides the beginning and ending dates of payable periods for each qualifying state. The trigger notices covering state eligibility for these programs can be

found at: *http://ows.doleta.gov/unemploy/claims_arch.asp.*

The following changes have occurred since the publication of the last notice regarding this state's EB and EUC08 trigger status:

• Based on data released by the Bureau of Labor Statistics on May 18, 2012, New York no longer met one of the criteria to remain ''on'' in EB, i.e., having their current three month average, seasonally adjusted total unemployment rate be at least 110 percent of one of the rates from a comparable period in one of the three prior years. This triggered New York ''off'' in the EB Program and the end of the payable period was the week ending June 10, 2012. New York has served the full 13 week ''off'' period on September 9, 2012. Given that the trigger rate in New York is currently at 8.9 percent, one look-back is at 110 percent, and the 13 week mandatory ''off'' period has concluded, New York meets the criteria to resume a High Unemployment Period in the EB Program. This payable period started with the week beginning September 10, 2012, and the maximum potential entitlement for the EB Program in New York is 20 weeks.

• In New York, where weeks end on a Sunday, a 13 week mandatory ''on'' period began for Tier 4 of the EUC08 Program on June 4, 2012. This mandatory 13-week ''on'' period concluded on September 2, 2012. Because the current trigger rate for New York is 8.9 percent, below the 9.0 percent threshold to remain on in Tier 4, New York has triggered ''off'' Tier 4 of the EUC08 Program and concluded an eligibility period in Tier 4 on September 2, 2012. Claimants in New York exhausting Tier 3 after September 2, 2012, can no longer establish Tier 4 eligibility.

Information for Claimants

The duration of benefits payable in the EUC08 Program, and the terms and conditions under which they are payable, are governed by public laws 110–252, 110–449, 111–5, 111–92, 111–118, 111–144, 111–157, 111–205, 111–312, and 112–96, and the operating instructions issued to the states by the Department. The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the Department.

In the case of a state beginning or concluding a payable period in EB or EUC08, the State Workforce Agency will furnish a written notice of any change in potential entitlement to each individual who could establish, or had established, eligibility for benefits (20 CFR 615.13(c)(1) and (c)(4)). Persons who believe they may be entitled to benefits in the EB or EUC08 Programs, or who wish to inquire about their rights under these programs, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by email: *gibbons.scott@dol.gov.*

Signed in Washington, DC, this 24th day of September 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–24085 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of September 10, 2012 through September 14, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such

workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,878	HARSCO Metals, RG Steel Warren LLC	Warren, OH	December 11, 2011.
81,881	APAC Customer Services, Inc., Expert Global Solutions, Inc., formerly known as NCO Group, Inc.	Greensboro, NC	July 26, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,787	CSR Technology, Inc., fka Zoran Corporation, CSR PLC, Proresources.	Sunnyvale, CA	July 9, 2011.
81,813	Crimzon Rose, Inc., LFUSA, Quality Assurance Department, Crimzon Rose Int'l and IDS, VPI, Inc.	West Warwick, RI	July 18, 2011.
81,847	Transform Manufacturing, LLC, Transform Holdings, Adecco USA, Kelly Services, Micron Technology, etc.	Nampa, ID	August 2, 2011.
81,847A	Transform Manufacturing, LLC, Transform Holdings, Adecco USA, Kelly Services, Micron Technology, etc.	Boise, ID	August 2, 2011.
81,854	Shop Vac Corporation, Keystone Staffing, Spherion and Manpower.	Williamsport, PA	August 3, 2011.
81,865	Sihi Pumps, Inc., Sihi Groups BV, EGW, Accountemps and Advantage Staffing.	Grand Island, NY	July 31, 2011.
81,870	Hartford Financial Services Group, Inc., Operations/Commercial Markets/Group, Benefits/Front, etc.	Windsor, CT	August 6, 2011.
81,884	New CIDC Delaware Corporation, Betclic Everest Group, Independent Contractor, Qualitest and SQA.	Cambridge, MA	August 6, 2011.
81,890	Artisans, Inc	Glen Flora, WI	September 2, 2012.
81,912	Fremont-Rideout Health Group, Medical Transcription Department, Now dba Mediscribes, Inc., Off-Site Workers.	Marysville, CA	August 18, 2011.

TA–W No.	Subject firm	Location	Impact date
81,913	EMD Millipore Corporation, Bioscience Division, Merck KGAA, Manpower Group.	Phillipsburg, NJ	August 23, 2011.
81,922	Cincinnati Bell Telephone Company, LLC, Cincinnati Bell, Call Center Operations, Belcan and Staffmark.	Cincinnati, OH	August 21, 2011.
81,932	The Evercare Company, Global Personnel Solutions.	Waynesboro, GA	August 23, 2011.
81,932A	The Evercare Company	Alpharetta, GA	August 23, 2011.
81,936	Atmel Corporation, Customer Service Representatives Division.	Colorado Springs, CO	August 31, 2011.
81,939	The Miller Company	Meriden, CT	September 4, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,863	Industrial Machine & Welding	Farmington, MO	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,741	International Business Machines (IBM), So Delivery, Service Management, (07) IBM Global Services.	Tulsa, OK	
81,794	Decisionone Corporation, Glodyne Technoserve, Decisionone Corp., Insource, Dysis and Smartsource.	Devon, PA	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
81,872	Sykes Enterprises, Incorporated, QDT Department.	Langhorne, PA	

I hereby certify that the aforementioned determinations were issued during the period of September 10, 2012 through September 14, 2012. These determinations are available on the Department's Web site tradeact/taa/taa search form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: September 21, 2012.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2012–24055 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2013.

DATES: *Effective Date:* The annual list of labor surplus areas is effective October 1, 2012, for all states, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210. Telephone: (202) 693–2870 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subpart A. These regulations require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the

regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations, ETA is hereby publishing the annual list of labor surplus areas.

In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

Eligible Labor Surplus Areas

A Labor Surplus Area (LSA) is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. Only official unemployment estimates provided to ETA by the Bureau of Labor Statistics are used in making these classifications. The average unemployment rate for all states includes data for the Commonwealth of Puerto Rico. The basic LSA classification criteria include a ''floor unemployment rate.'' A civil jurisdiction must have an unemployment rate of 6.0% or higher to be classified a LSA and a ''ceiling unemployment rate'' (10.0%). Any civil jurisdiction that has an unemployment rate of 10% or higher is classified a LSA.

Civil jurisdictions are defined as follows:

(a) A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or

(b) A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities; or

(c) A county, except those counties which contain any type of civil jurisdictions defined in A or B above and a county in the States of Connecticut, Massachusetts, and Rhode Island; or

(d) A ''balance of county'' consisting of a county less any component cities and townships identified in paragraphs A or B above; or

(e) A county equivalent which is a town in the States of Connecticut, Massachusetts, and Rhode Island, or a municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

The Department of Labor (DOL) issues the labor surplus area list on a fiscal year basis. The list becomes effective each October 1 and remains in effect through the following September 30. The reference period used in preparing the current list was January 2010 through December 2011. The national average unemployment rate (including Puerto Rico) during this period was rounded to 9.4 percent. Twenty percent higher than the national unemployment rate is 11.2 percent. Since the ceiling unemployment rate is 10.0 percent, the qualifying rate for LSA classification is 10.0 percent. Therefore, areas included on the FY 2013 labor surplus area list had an average unemployment rate of 10.0 percent or above during the reference period. When a city (that is a civil jurisdiction) is part of a county and meets the unemployment qualifier as a labor surplus area, then the balance of county, not the county, will be used if the balance of county also meets the unemployment criteria of a labor surplus area. The FY 2013 labor surplus area list and the list of labor surplus areas in Puerto Rico can be accessed, once the 2013 LSA list is published, at ETA's LSA Web site *http://www.doleta.gov/programs/lsa.cfm.*

Petition for Exceptional Circumstance Consideration

The classification procedures also provide for the designation of labor surplus areas under exceptional circumstance criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not reflected in the data for the 2-year reference period. Under the program's exceptional circumstance procedures, labor surplus area classifications can be made for civil jurisdictions, Metropolitan Statistical Areas or Combined Statistical Areas, as defined by the Office of Management and Budget. In order for an area to be classified as a labor surplus area under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to the Department of Labor's ETA. The current criteria for an exceptional circumstance classification are: An area's unemployment rate is at least 10.0 percent for each of the three most recent months; a projected unemployment rate of at least 10.0 percent for each of the next 12 months; and documentation that the exceptional circumstance event has already occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, as well as Metropolitan Statistical Areas or Micropolitan Statistical Areas. The addresses of state workforce agencies are available on the ETA Web site at: *http://www.doleta.gov/programs/lsa.cfm.* State Workforce Agencies may submit petitions in electronic format to *wright.samuel.e@dol.gov,* or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW, Room S–4231, Washington, DC 20210 Attention Samuel Wright. Data collection for the petition is approved under OMB 1205–0207, expiration date March 31, 2013.

Signed at Washington, DC, this 21st day of September, 2012.

Jane Oates,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 2012–24086 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Native American Employment and Training Council Meeting

AGENCY: Employment and Training Administration, U.S. Department of Labor.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended, and Section 166(h)(4) of the Workforce Investment Act (WIA) [29 U.S.C. 2911(h)(4)], notice is hereby given of the next meeting of the Native American Employment and Training Council (Council), as constituted under WIA.

DATES: The meeting will begin at 9:00 a.m. (Eastern Time) on Tuesday, October 16, 2012, and continue until 3:00 p.m. that day. The meeting will reconvene at 9:00 a.m. on Wednesday, October 17, 2012, and adjourn at 4:30 p.m. that day. The period from 2:00 p.m. to 4:00 p.m. on October 17, 2012, will be reserved for participation and presentations by members of the public. The meeting will reconvene at 9:00 a.m. on Thursday, October 18, 2012, and adjourn at 12:00 p.m. that day.

ADDRESSES: On October 16–17, 2012 the meeting will be held at the U.S. Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts Avenue, Northeast, Washington, DC 20212. On

October 18, 2012 the meeting will be held at the U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue, Northwest, Room S–2322, Washington, DC 20210.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Members of the public not present may submit a written statement on or before October 12, 2012, to be included in the record of the meeting. Submit written statements to Mrs. Evangeline M. Campbell, Designated Federal Official (DFO), U.S. Department of Labor, 200 Constitution Avenue, Northwest, Room S–4209, Washington, DC 20210. Persons who need special accommodations should contact Mr. Craig Lewis at (202) 693–3384, at least two business days before the meeting. The formal agenda will focus on the following topics: (1) Program Year 2012 Strategic Planning, (2) U.S. Department of Labor (DOL), Employment and Training Administration Update; (3) DOL, Office of Public Engagement—Tribal Consultation Policy (TCP) Update; (4) DOL, Division of Indian and Native American Program Update; (5) Training and Technical Assistance; and (6) Council Update and Recommendations.

FOR FURTHER INFORMATION CONTACT: Mrs. Evangeline M. Campbell, DFO, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room S–4209, 200 Constitution Avenue, Northwest, Washington, DC 20210. Telephone number (202) 693–3737 (VOICE) (this is not a toll-free number).

Signed in Washington, DC, this 20th day of September, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–23952 Filed 9–28–12; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Data Users Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Data Users Advisory Committee will meet on Thursday November 8, 2012. The meeting will be held in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic, and government communities, on technical matters related to the collection, analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on the broader aspects of its overall mission and function.

The meeting will be held in Meeting Rooms 1, 2, and 3 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

8:30 a.m.—Registration
8:45 a.m.—Introductions, welcome, and brief review of agency developments
9:15 a.m.—Misunderstood statistics: Helping Users understand the limitations of BLS data
10:30 a.m.—Errors and errata—How best to present to the public
1:00 p.m.—Documenting BLS methodology—How best to present to the public
2 p.m.—Disclosure limitation—is noise better than nothing?
3:15 p.m.—Previewing Data Finder: a new LABSTAT data query tool
4:15 p.m.—Meeting wrap-up

The meeting is open to the public. Any questions concerning the meeting should be directed to Kathy Mele, Data Users Advisory Committee, on 202.691.6102. Individuals who require special accommodations should contact Ms. Mele at least two days prior to the meeting date.

Signed at Washington, DC, this 26th day of September, 2012.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2012–24083 Filed 9–28–12; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 31, 2012. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: *request.schedule@nara.gov.*

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules,

however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Health and Human Services, Centers for Medicare & Medicaid Services (DAA–0440–2012–0012, 1 item, 1 temporary item). Master files of an electronic information system containing records related to the utilization and performance of state-run health insurance assistance programs.

2. Department of the Interior, Bureau of Land Management (N1–49–10–1, 4 items, 3 temporary items). Records documenting the wildland fire science grant program, including funded and unfunded grant case files and master files of an electronic information system used to track grants. Proposed for permanent retention are significant final reports created as part of the funded grants.

3. Department of the Interior, Office of the Secretary (DAA–0048–2012–0001, 3 items, 1 temporary item). Records relating to mineral evaluations on Indian lands and other Federal properties. Proposed for permanent retention are reservation-wide mineral evaluations and evaluations for individual Indian land allotments.

4. Department of Transportation, Federal Transit Administration (N1–408–11–21, 3 items, 2 temporary items). Records of the Office of Management and Planning, including administrative correspondence and supporting documents related to management planning programs. Proposed for permanent retention are management planning files.

5. Federal Communications Commission, Wireline Competition Bureau, (N1–173–11–1, 4 items, 4 temporary items). Master files of an electronic system used to collect information to evaluate and encourage deployment of advanced telecommunications capability to all Americans.

6. Federal Communications Commission, Media Bureau, (N1–173–11–2, 1 item, 1 temporary item). Records consist of a franchising certification forms that represent a continuing permit for local franchising authorities, such as local governments, to regulate cable operators.

7. Federal Communication Commission, Media Bureau (N1–173–11–5, 3 items, 3 temporary items). Certification requests and related documentation allowing telephone companies to use their infrastructure to provide cable-like video service to subscribers.

8. Federal Housing Finance Agency, Agency-wide (N1–543–11–1, 49 items, 35 temporary items). Comprehensive records schedule covering all aspects of agency work. Proposed for permanent retention are records documenting significant agency functions and oversight activities.

9. Office of the Director of National Intelligence, Office of the Associate Director of National Intelligence and Chief Information Officer (N1–576–10–1, 27 items, 18 temporary items). Records related to general internal operating procedures, including master files of an electronic information system that tracks workflow, and reference materials. Also included are low-level dispute resolution case files and information technology records typically covered by the General Records Schedule. Proposed for permanent retention are correspondence and master files of an electronic information system used to manage correspondence, records of senior level officials including high level dispute resolution case files, boards and working groups, speeches, program files, calendars, and substantive working papers.

10. National Indian Gaming Commission, Agency-wide (N1–220–12–2, 1 item, 1 temporary item). Independent audit reports submitted to the Commission by gaming operations in order to assess fees.

11. National Wildfire Coordinating Group, Agency-wide (N1–583–12–1, 10 items, 5 temporary items). Draft meeting minutes, agendas, and duplicate publications. Proposed for permanent retention are final approved meeting minutes, agendas, decision memoranda, and publications.

Dated: September 24, 2012.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2012–24117 Filed 9–28–12; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Announcement of Humanities Medal Design Competition Under the America COMPETES Reauthorization Act of 2010

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: To encourage artists and designers to create a thoughtful and imaginative visual representation of the humanities for a Presidential medal, this notice announces the Humanities Medal Design Competition under Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Competition begins on October 1, 2012, and ends February 1, 2013. A winner will be announced on or about April 15, 2013, unless the term of the competition is extended as provided in this notice.

FOR FURTHER INFORMATION CONTACT: Judy Havemann, Director of Communications, National Endowment for the Humanities, (202) 606–8446, or *medalcontest@neh.gov.*

SUPPLEMENTARY INFORMATION:

Subject of the Competition

The National Endowment for the Humanities (NEH) is seeking a new design for the National Humanities Medal, which is bestowed annually by the President of the United States in a White House ceremony. NEH is one of the largest funders of humanities programs in the United States. NEH grants typically go to cultural institutions, such as museums, archives, libraries, colleges, universities, public television and radio stations, and to individual scholars. (Visit the NEH Web site, *www.neh.gov.*) The National Humanities Medal, inaugurated in 1997, honors individuals or groups who have made outstanding contributions to the humanities. Past winners have included author Toni Morrison, historian Stephen Ambrose, filmmaker Steven Spielberg, and Nobel laureate Elie Wiesel. It is a distinguished group of thinkers who deserve a glorious medal. A full list of medal recipients is available at *www.neh.gov/about/awards/national-humanities-medals.* The new medal is intended to premiere at the 2013 National Humanities Medal ceremony and will serve the NEH far into the future.

Rules for Participating in the Competition

1. *Eligibility.* To be eligible to win a prize under this competition, you—

(a) Must register to participate in the competition under the Official Rules promulgated by NEH;

(b) Must comply with all the requirements under this notice and the America COMPETES Act of 2010 (Pub. L. 111–358);

(c) Must be a citizen or permanent resident of the United States and 18 years of age or older before the submission period ends;

(d) May not be a Federal employee acting within the scope of your employment; and

(e) May not be an employee of NEH or an immediate family member (spouse, parents or step-parents, siblings and step-siblings, children and step-children, and household members).

2. If you are a Federal grantee, you may not use Federal funds to develop applications for this competition unless such use is consistent with the purpose of your grant award.

3. If you are a Federal contractor, you may not use Federal funds from a contract to develop or fund efforts in support applications for this competition.

4. You may use Federal facilities or consult with Federal employees during the competition if the facilities and employees are made available to all contestants participating in the competition on an equitable basis.

5. NEH will accept submissions from single individuals only and not from entities or groups of individuals. You may, however, submit more than one entry if you have developed more than one unique medal design.

6. *Insurance and Indemnification.*

(a) By participating in this competition, you agree to assume any and all risks and waive claims against the Federal government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arises through negligence or otherwise. Provided, however, that you are not required to waive claims against NEH arising out of the unauthorized use of or disclosure by NEH of your intellectual property or confidential information.

(b) By participating in this competition, you agree to indemnify the Federal government against third party claims for damages arising from or related to competition activities.

(c) Based on the subject matter of the competition, the type of work that it will possibly require, and an analysis of the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from participation, NEH does not require you to obtain liability insurance or demonstrate financial responsibility in order to participate in this competition.

7. *Intellectual Property Rights.*

(a) By submitting a design to the competition, you represent and warrant that you are the sole author and owner of the submitted design. Designs must be your original work, and must not violate or infringe the rights of other parties, including but not limited to privacy, publicity, or intellectual property rights, or material that constitutes copyright or license infringement. Your design may not contain any material that is inappropriate, indecent, obscene, hateful, defamatory, or in any way disparaging. Your design cannot have been submitted previously in another promotion or contest of any kind.

(b) You understand and agree that if your entry is selected as the winning design, it may be modified or altered by NEH, in its sole discretion, as deemed appropriate or necessary to execute, produce, or distribute the winning design in its final medal format.

(c) The winning contestant will, in consideration of the prize to be awarded, grant to NEH an irrevocable, royalty-free, exclusive worldwide license to reproduce, distribute, copy, display, create derivative works, and publicly post, link to, and share, the winning design or parts thereof, for the purpose of the competition and for any official NEH purpose.

8. NEH reserves the right, at its sole discretion, to cancel, suspend, and/or modify the competition for any reason, which includes the right to decline to select a winning design if NEH determines that no submission satisfactorily meets the selection criteria.

9. By participating in this competition, you are providing your full and unconditional agreement to abide by the rules set forth in this notice, and by the Humanities Medal Design Competition Official Rules found at *humanitiesmedaldesign.challenge.gov.*

Process for Participants To Register for the Competition

NEH will accept submissions only through *challenge.gov.*

1. Create an account on *humanities medaldesign.challenge.gov* or log in with an existing ChallengePost account.

2. On *humanitiesmedaldesign. challenge.gov,* click ''Accept this challenge'' to register your interest in participating. This step ensures that you will receive important competition updates.

3. After you sign up on *humanities medaldesign.challenge.gov* a confirmation email will be sent to the email address you provided. Use the confirmation email to verify your email address. As a registered contestant, you will then be able to enter the competition by submitting an application that conforms to the requirements set forth herein.

4. Create a new visual design for the National Humanities Medal. NEH invites thoughtful and creative solutions for a new National Humanities Medal. Translating the idea of the humanities—the study of literature, philosophy, history, and other subjects—into a visual form is a challenging task. (For more about the humanities, visit the NEH Web site, *www.neh.gov.*) The design should reflect the importance of the award and of the humanities in a graceful, insightful, and ultimately beautiful manner.

a) Your design must include the following: The words ''National Humanities Medal'' and a blank area on the back of the medal of at least 3 by 1.5 inches. The name of the medalist will be engraved here.

b) Things to keep in mind as you draft a design: The medal hangs on a ribbon around the neck; the diameter of the medal should be between 3 to 4 inches; the design can use realistic or abstract elements to convey the idea of the humanities; designs should indicate relief depths, if possible, and make suggestions for type of metal, materials, patinas, and/or colors to be used.

5. Confirm that you have read and agreed to the Official Rules.

6. Submit a scanned drawing, a digital drawing, or a photograph of a sculpted model to *humanitiesmedaldesign.challenge.gov* between October 1, 2012, at 9:00 a.m. EST and February 1, 2013, at 5:00 p.m. EDT by uploading a ZIP, PDF, or Word file up to 10 MB. Include written text using the description summary area to describe the thought process behind the design and how it relates to the humanities.

Amount of the Prize

The winning contestant will receive $3,000 by electronic transfer and be invited to an unveiling of the final medal in Washington DC Awards may be subject to Federal income taxes, and NEH will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected

NEH will select a judging panel that will consist of 4–7 outside experts, chosen for their achievements in the fields of art, sculpture, minting, and cultural management, along with 2–3 representatives of NEH. Judges will be fair and impartial. A judge may not have a familial or financial relationship with an individual who is a registered contestant in the competition. Judges will fully comply with all applicable government ethics requirements for Federal employees.

Judges will use the following criteria to judge the submitted designs:

1. *Design relates to the humanities.* The subjects and ideas of the humanities—literature, history, philosophy—need to be conveyed in the design of the medal. This may be done through a realistic or abstract design.

2. *Design will translate into a three-dimensional medal.* Ultimately, the design needs to be translated into a three-dimensional medal. A winning design, which may be two-dimensional, will have to be adapted by an artisan in order to create a sculpture for the medal. Can this design become a successful bas-relief medal?

3. *Design can be replicated.* Between 10 and 12 medals need to be struck each year to present to National Humanities Medalists. Can this design be replicated successfully, without excessive cost, for many years to come?

4. *Beauty of design.* Is the design graceful, elegant, and to be cherished by its recipient? Is it worthy of a Presidential medal?

The judging panel will judge the submissions to advise the Chairman of NEH, who will choose the final winning design. All judging will take place between approximately February 15, 2013, and approximately April 10, 2013. NEH will announce the winner on or about April 15, 2013. For questions or further information, please see the contact information listed above.

Authority: 15 U.S.C. 3719.

Dated: September 26, 2012.

Carole M. Watson,

Deputy Chairman.

[FR Doc. 2012–24111 Filed 9–28–12; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143; NRC–2009–0435]

Nuclear Fuel Services, Inc., Erwin, TN; Issuance of License Renewal

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of issuance of license renewal.

FOR FURTHER INFORMATION CONTACT: Kevin M. Ramsey, Project Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3123; email: *Kevin.Ramsey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Section 2.106 of Title 10 of the *Code of Federal Regulations* (10 CFR), the U.S. Nuclear Regulatory Commission (NRC or the Commission) is providing notice of the issuance of License Renewal to Material License No. SNM–124, to Nuclear Fuel Services, Inc. (the licensee), which authorizes the licensee to continue fabricating reactor fuel for commercial and government customers at the licensee's facility in Erwin, Tennessee. The licensee's request for renewal of its license was previously noticed in the **Federal Register** on October 6, 2009 (74 FR 51323), with a notice of an opportunity to request a hearing. No hearing requests were received. In accordance with 10 CFR Part 51, an environmental assessment of this action was completed and a finding of no significant impact was published in the **Federal Register** on October 26, 2011 (76 FR 66334).

This license renewal complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the NRC's rules and regulations as set forth in 10 CFR Chapter 1. Accordingly, this license renewal was issued on August 2, 2012, and is effective immediately.

II. Further Information

The NRC has prepared a Safety Evaluation Report (SER) that documents the information that was reviewed and the NRC's conclusion. In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' details with respect to this action, including the SER and accompanying documentation included in the license renewal package, are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. The ADAMS Accession Numbers for documents related to this Notice are ML113040421 (License Renewal) and ML112560265 (Final Environmental Assessment). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, 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.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 20th day of September 2012.

For the U.S. Nuclear Regulatory Commission.

Kevin M. Ramsey,

Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2012–24148 Filed 9–28–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67923; File No. SR–NYSEARCA–2012–103]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Rules 3.2 and 3.3 and NYSE Arca Equities, Inc. (''NYSE Arca Equities'') Rules 3.2 and 3.3 to Expand the Eligibility Requirements for Service on Boards of Directors and Committees

September 25, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 18, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') 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 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 amend NYSE Arca Rules 3.2 and 3.3 and NYSE Arca Equities, Inc. (''NYSE Arca Equities'') Rules 3.2 and 3.3 to expand the eligibility requirements for service on boards of directors and committees. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Rules 3.2 and 3.3 and NYSE Arca Equities Rules 3.2 and 3.3 to expand the eligibility requirements for service on boards of directors and committees.

Amendments to NYSE Arca Rules

Neither the Certificate of Incorporation nor the Bylaws of NYSE Arca restrict the eligibility of persons who can serve as a non-Public Director on the NYSE Arca Board of Directors or on committees.[4] However, provisions of NYSE Arca Rules 3.2 and 3.3 require certain Board and committee members to be OTP Holders [5] or Allied Persons of OTP Firms.[6] An Allied Person is an individual who is (1) An employee of an OTP Firm who controls such firm, (2) an employee of an OTP Firm corporation who is a director or a principal executive officer of such corporation, (3) an employee of an OTP Firm limited liability company who is a manager or a principal executive officer of such limited liability company, or (4) a general partner in an OTP Firm partnership; each of these persons must be approved by the Exchange as an Allied Person.[7] The Exchange proposes to expand the eligibility to serve in these Board and committee positions so that it includes OTP Holders, Allied Persons of OTP Firms, and Associated Persons of OTP Firms. ''Associated Person'' is a broader term that means a person who is a partner, officer, director, member of a limited liability company, trustee of a business trust, employee of an OTP Firm, or any person directly or indirectly controlling, controlled by or under common control with an OTP Firm.[8]

Board of Directors

Section 6(b)(3) of the Securities Exchange Act of 1934, as amended (the ''Act''), requires that the rules of an exchange shall ''assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer.'' [9] Exchange members who serve on exchange boards thus are sometimes referred to as ''fair representation directors.'' NYSE Arca Rule 3.2 sets forth a process for the nomination and selection of these directors. Specifically, NYSE Arca Rule 3.2(b)(2)(C)(ii) provides that the Nominating Committee may nominate OTP Holders or Allied Persons of OTP Firms to serve on the NYSE Arca Board of Directors. In addition, OTP Holders may submit a petition to the Exchange to nominate additional eligible candidates if certain requirements are met.

The Exchange proposes to expand the eligibility for fair representation directors to include Associated Persons of OTP Firms. The Exchange believes that current NYSE Arca Rule 3.2 is unnecessarily exclusive and that the Exchange would benefit by expanding the pool of candidates for these Board seats to include all employees of OTP Firms. There may be employees of an OTP Firm who fall outside the definition of Allied Person whose experience would significantly benefit the Board of Directors and the Exchange.

Permitting Associated Persons of OTP Firms to serve on the NYSE Arca Board of Directors is consistent with the board composition standards of at least five other self-regulatory organizations (''SROs''). The Exchange's affiliate, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'') do not restrict fair representation directors to trading permit holders or Allied Persons.[10] In addition, other exchanges specifically authorize the industry representatives on their exchanges to include member firm employees. For example, FINRA's Board of Governors includes Industry Governors, who are defined as persons who are or have served in the prior year as an officer, director (other than as an independent director), employee or controlling

[4] *See* NYSE Arca Certificate of Incorporation and Sections 3.02, 4.01, and 4.02 of the NYSE Arca Bylaws.

[5] OTP Holder means a natural person, in good standing, who has been issued an Options Trading Permit (''OTP''), or has been named as a nominee. *See* NYSE Arca Rule 1.1(q).

[6] OTP Firm means a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing who holds an OTP or upon whom an individual OTP Holder has conferred trading privileges on the Exchange's trading facilities. *See* NYSE Arca Rule 1.1(r).

[7] *See* NYSE Arca Rule 1.1(b).

[8] *See* NYSE Arca Rule 1.1(d).

[9] 15 U.S.C. 78f(b)(3).

[10] *See* Article II, Section 2.03(a) of the Fourth Amended and Restated Operating Agreement of NYSE (''NYSE Operating Agreement''), *available at https://usequities.nyx.com/sites/usequities.nyx.com/files/fourth_amended_and_restated_operating_agreement_of_nyse_llc.pdf,* and Article II, Section 2.03(a) of the Third Amended and Restated Operating Agreement of NYSE MKT (''NYSE MKT Operating Agreement''), *available at http://wallstreet.cch.com/MKT/pdf/operating_agreement.pdf.*

person of a broker-dealer.[11] Thus, any person who is an employee of a broker-dealer is eligible to be a member of FINRA's Board of Governors. The NASDAQ Stock Market, Inc. (''NASDAQ'')[12] and BATS Exchange, Inc. (''BATS'')[13] have similar compositional structures that permit a broker-dealer employee to serve on their governing boards.

Committees

Currently, NYSE Arca Rule 3.2(a) sets forth general provisions for Options Committees. Specifically, NYSE Arca Rule 3.2(a)(8) states that any OTP Holder of the Exchange in good standing, Allied Person of an OTP Firm, or person from the public is eligible for appointment or election to Options Committees. The Chief Executive Officer (''CEO'') of the Exchange appoints eligible OTP Holders, Allied Persons of an OTP Firm, and persons from the public to the positions so allocated on Options Committees for a term of one year. Under NYSE Arca Rule 3.2(a)(9), the CEO of the Exchange may designate one or more OTP Holders, an Allied Person of an OTP Firm, and persons from the public as alternate members of any Options Committee, who may replace any absent or disqualified member at any meeting of such committee.

Current NYSE Arca Rule 3.2(b) sets forth provisions for three specific Options Committees: the Ethics and Business Conduct Committee (''EBCC''), the Nominating Committee, and the OTP Advisory Committee. First, under NYSE Arca Rule 3.2(b)(1), the EBCC is made up primarily of OTP Holders and Allied Persons of an OTP Firm. The EBCC is responsible for and has the authority to examine the business conduct and financial condition of OTP Holders, OTP Firms, and associated persons; conduct hearings and render decisions in summary disciplinary actions and proceedings; impose appropriate sanctions of expulsion, suspension, fine, censure or any other fitting sanctions where the EBCC finds that a violation within the disciplinary jurisdiction of the Exchange has been committed; and require the production of detailed financial reports of an OTP Holder or OTP Firm and such other operational reports as it may deem relevant. Second, under NYSE Arca Rule 3.2(b)(2), the Nominating Committee, which is made up of six OTP Holders, is responsible for nominating fair representation directors for election to the Exchange Board of Directors as described above. Third, under NYSE Arca Rule 3.2(b)(3), the OTP Advisory Committee is made up of OTP Holders and acts in an advisory capacity regarding rule changes related to disciplinary matters and trading rules.

Current NYSE Arca Rule 3.3 sets forth provisions for the Board Appeals Committee, which is made up of the OTP Director(s), the ETP Director(s) and all of the Public Directors of the NYSE Arca Board of Directors. The Board Appeals Committee may appoint an Appeals Panel to conduct reviews of disciplinary proceedings or may decide to conduct review proceedings on its own.[14] Under NYSE Arca Rule 3.3(a)(1)(B), if an Appeals Panel is appointed, it must include at least one public Director and at least one Director that is an OTP Holder or Allied Person of an OTP Firm.

As proposed above with respect to the Board of Directors, the Exchange proposes to amend these provisions of NYSE Arca Rules 3.2 and 3.3 so that Associated Persons of OTP Firms would be eligible for membership on the EBCC and Appeals Panels of the Board Appeals Committee and both Allied Persons and Associated Persons of OTP Firms would be eligible for membership on the Nominating Committee and OTP Advisory Committee. The Exchange believes that the current Rules are unnecessarily exclusive and that the Exchange would benefit by expanding the pool of eligible candidates for these positions.

Permitting Allied Persons and Associated Persons of OTP Firms to serve in these positions also is consistent with the composition standards of at least five other SROs. For example, committees of FINRA's Board of Governors[15] and FINRA appeals panels[16] may include employees of broker-dealers. Other exchanges, including NYSE,[17] NYSE MKT,[18] NASDAQ,[19] and BATS,[20] have similar committee composition provisions that do not prohibit a broker-dealer employee to serve on committees and appeals panels. The proposed rule change would make the Exchange's committee composition requirements consistent with these other SROs by permitting Allied Persons and Associated Persons to serve on the above-referenced Exchange committees and panels.

Amendments to NYSE Arca Equities Rules

The Exchange proposes to make parallel changes to the NYSE Arca Equities Rules. Neither the Certificate of Incorporation nor the Bylaws of NYSE Arca Equities restrict the eligibility of persons who can serve as a non-Public Director on the NYSE Arca Equities Board of Directors or on committees.[21] However, provisions of NYSE Arca Equities Rules 3.2 and 3.3 require certain Board and committee members to be ETP Holders[22] or Allied Persons[23] of ETP Holders. The Exchange proposes to expand the eligibility to serve in these Board and committee positions so that it includes ETP Holders, Allied Persons of ETP Holders, and Associated Persons[24] of ETP Holders.

Board of Directors

NYSE Arca Equities Rule 3.2 sets forth a process for the nomination and selection of fair representation directors. Specifically, NYSE Arca Equities Rule 3.2(b)(2)(C)(i) provides that the

[11] *See* FINRA Bylaws, Article I(t) and Article VII, Section 4(a), *available at http://finra.complinet.com/en/display/display_viewall.html?rbid=2403&element_id=4598&record_id=5998.*

[12] *See* Bylaws of NASDAQ, Article I(j) and Article IV, Section 4.3, *available at http://www.nasdaq.com/investorrelations/Bylaws.pdf.*

[13] *See* Amended and Restated Bylaws of BATS, Article I(o) and Article III, Section 2, *available at http://www.batstrading.com/resources/regulation/by_laws/Amended&RestatedBy-LawsBATSEx.pdf.*

[14] *See* NYSE Arca Rule 10.8.

[15] *See* FINRA Bylaws, Article IX, *supra* note 11.

[16] *See* FINRA Bylaws, Article I(x) and (nn) and Article V, Section 5.2(a), *supra* note 11.

[17] *See* Article II, Section 2.03(h) of NYSE Operating Agreement, *supra* note 10.

[18] *See* Article II, Section 2.03(h) of the NYSE MKT Operating Agreement, *supra* note 10.

[19] *See* Bylaws of NASDAQ, Article I(j) and Article IV, Section 4.13, *supra* note 12, which provide for the appointment of ''Industry Directors'' to committees.

[20] *See* Amended and Restated Bylaws of BATS, Article I(p) and Article V, Section 2, *supra* note 13, which provides for the appointment of ''Industry members'' to committees.

[21] *See* NYSE Arca Equities Certificate of Incorporation and Sections 3.02, 4.01, and 4.02 of the NYSE Arca Equities Bylaws.

[22] ETP Holder means a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an Equities Trading Permit. *See* NYSE Arca Equities Rule 1.1(n).

[23] An Allied Person is an individual who is (1) An employee of an ETP Holder who controls such firm, (2) an employee of an ETP Holder corporation who is a director or a principal executive officer of such corporation, (3) an employee of an ETP Holder limited liability company who is a manager or a principal executive officer of such limited liability company, or (4) a general partner in an ETP Holder partnership; each of these persons must be approved by NYSE Arca Equities as an Allied Person. *See* NYSE Arca Equities Rule 1.1(c).

[24] ''Associated Person'' is a broader term that means a person who is a partner, officer, director, member of a limited liability company, trustee of a business trust, employee of an ETP Holder or any person directly or indirectly controlling, controlled by or under common control with an ETP Holder. *See* NYSE Arca Equities Rule 1.1(f).

Nominating Committee may nominate ETP Holders or persons affiliated with such ETP Holders to serve on the NYSE Arca Equities Board of Directors and ETP Holders or Allied Persons of ETP Holders to serve on the NYSE Arca Board of Directors. In addition, ETP Holders may submit a petition to NYSE Arca Equities to nominate additional eligible candidates for the NYSE Arca Equities and NYSE Arca Boards if certain requirements are met.

The Exchange proposes to expand the eligibility for fair representation directors on the NYSE Arca Board to include Associated Persons of ETP Holders. As noted with respect to the proposed rule change to the NYSE Arca Rules, the Exchange believes that current NYSE Arca Equities Rule 3.2 is unnecessarily exclusive and that the Exchange would benefit by expanding the pool of candidates for these board seats to include all employees of ETP Holders. There may be employees of an ETP Holder who fall outside the definition of Allied Person whose experience would significantly benefit the boards of directors and the Exchange.

Permitting Associated Persons of ETP Holders to serve on the boards of directors is consistent with the board composition standards of at least five other SROs. The Exchange's affiliates, NYSE and NYSE MKT do not restrict fair representation directors to trading permit holders or Allied Persons.[25] In addition, other exchanges specifically authorize the industry representatives on their exchanges to include member firm employees, as noted above.[26]

Committees

Currently, NYSE Arca Equities Rule 3.2(a) sets forth general provisions for Equities Committees. Specifically, NYSE Arca Equities Rule 3.2(a)(8) states that any ETP Holder of NYSE Arca Equities in good standing, Allied Person of an ETP Holder, or person from the public is eligible for appointment or election to Equities Committees. The CEO of NYSE Arca Equities appoints eligible ETP Holders, Allied Persons of an ETP Holder, and persons from the public to the positions so allocated on Equities Committees for a term of one year. Under NYSE Arca Equities Rule 3.2(a)(9), the CEO of NYSE Arca Equities may designate one or more ETP Holders, an Allied Person of an ETP Holder, and persons from the public as alternate members of any Equities Committee, who may replace any absent or disqualified member at any meeting of such committee.

Current NYSE Arca Equities Rule 3.2(b) sets forth provisions for three specific Equities Committees: The Business Conduct Committee (''BCC''), the Nominating Committee, and the Member Advisory Committee. First, under NYSE Arca Equities Rule 3.2(b)(1), the BCC is made up primarily of ETP Holders and Allied Persons of an ETP Holder. The BCC is responsible for and has the authority to examine the business conduct and financial condition of ETP Holders and associated persons; conduct hearings and render decisions in summary disciplinary actions and proceedings; impose appropriate sanctions of expulsion, suspension, fine, censure or any other fitting sanctions where the BCC finds that a violation within the disciplinary jurisdiction of NYSE Arca Equities has been committed; and require the production of detailed financial reports of an ETP Holder and such other operational reports as it may deem relevant. Second, under NYSE Arca Equities Rule 3.2(b)(2), the Nominating Committee, which is made up of six ETP Holders, is responsible for nominating fair representation directors for election to the boards of directors as described above. Third, under NYSE Arca Equities Rule 3.2(b)(3), the Member Advisory Committee acts in an advisory capacity regarding rule changes related to disciplinary matters and off-board trading rules.

Current NYSE Arca Equities Rule 3.3 sets forth provisions for the Board Appeals Committee, which is made up of at least one public director and at least one director that is an ETP Holder or Allied Person of an ETP Holder. The Board Appeals Committee may conduct reviews of disciplinary proceedings.[27]

As proposed above with respect to the boards of directors, the Exchange proposes to amend these provisions of NYSE Arca Equities Rules 3.2 and 3.3 so that Associated Persons of ETP Holders would be eligible for membership on the BCC, the Member Advisory Committee, and the Board Appeals Committee and both Allied Persons and Associated Persons of ETP Holders would be eligible for membership on the Nominating Committee. The Exchange believes that the current Rules are unnecessarily exclusive and that the Exchange would benefit by expanding the pool of eligible candidates for these positions.

Permitting Allied Persons and Associated Persons of ETP Holders to serve in these positions also is consistent with the composition standards of at least five other SROs, as noted above.[28] The proposed rule change would make NYSE Arca Equities' committee composition requirements consistent with these other SROs by permitting Allied Persons and Associated Persons to serve on the above-referenced NYSE Arca Equities committees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(3) of the Act,[29] which requires that the rules of an exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Exchange believes that including Associated Persons in the eligibility requirements for boards and committees will better represent the interests of the membership because eligibility for positions will be expanded to a larger pool of appropriate candidates.

The Exchange notes that the proposed rule change would not affect the number of fair representation candidates on the boards or any other aspect of the boards' composition or the remainder of the boards' nomination process. The proposed rule change also would not affect the provision that persons subject to a statutory disqualification under the Act could not serve on the Exchange's boards.

The proposed rule change also furthers the objectives of Section 6(b)(6) of the Act,[30] because it provides for appropriate discipline for violations of Exchange rules and regulations. The Exchange believes it would benefit from the expansion of available candidates with industry knowledge that are eligible for membership on the Options and Equities Committees that are involved in reviewing disciplinary actions against OTP Holders, OTP Firms, and ETP Holders and advising on rule changes related to disciplinary matters and trading rules.

In addition, the Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act[31] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

[25] *See supra* note 10.

[26] *See supra* notes 11–13.

[27] *See* NYSE Arca Equities Rule 10.8.

[28] *See supra* notes 15–20.

[29] 15 U.S.C. 78f(b)(3).

[30] 15 U.S.C. 78f(b)(6).

[31] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes the proposed rule change would expand the pool of candidates eligible for membership on the boards and committees and thereby increase the breadth of industry knowledge that will be available to it, which benefits the public interest. In addition, the Exchange would foster cooperation and coordination with other exchanges by aligning the board and committee member composition requirements with at least five other SROs.[32]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2012–103 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2012–103. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2012–103 and should be submitted on or before October 22, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24040 Filed 9–28–12; 8:45 am]

BILLING CODE 8011–01–P

[32] *See supra* notes 10–13, 15–20.

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67921; File No. SR–OCC–2012–17]

Self-Regulatory Organizations; The Options Clearing Corporation; Advance Notice Relating to the Margining of Segregated Futures Customer Accounts on a Gross Basis

September 25, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4(n)(1)(i),[2] notice is hereby given that on September 14, 2012, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice described in Items I and II below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

The proposed rule change would allow OCC to become compliant with Commodity Futures Trading Commission (''CFTC'') Rule 39.13(g)(8)(i), which requires the margining of segregated futures customer accounts on a gross basis.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and advance notice and discussed any comments it received on the proposed rule change and advance notice. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.[3]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

The purpose of this proposed rule change is to provide for the margining of OCC segregated futures customer accounts on a gross basis, as required by CFTC Rule 39.13(g)(8)(i).[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4(n)(i).

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] 17 CFR 39.13(g)(8)(i).

The CFTC's Customer Gross Margin Rule

On October 18, 2011, the CFTC issued final regulations implementing many of the new statutory core principles for CFTC-registered derivatives clearing organizations (''DCOs'') enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). As a registered DCO (as well as a registered securities clearing agency), OCC has previously implemented rule changes designed to bring OCC into compliance with CFTC rules applicable to DCOs that went into effect on January 9, 2012 [5] and May 7, 2012.[6] OCC believes it is necessary to amend its Rules in order to ensure compliance with the gross margin rule, which requires a DCO to ''collect initial margin on a gross basis for each clearing member's customer account(s) equal to the sum of the initial margin amounts that would be required by the derivatives clearing organization for each individual customer within that account if each individual customer were a clearing member.'' [7] The CFTC gross margin rule goes into effect on November 8, 2012; however, OCC intends to begin complying with the gross margin rule on Monday November 5, 2012 as described herein.

OCC's System for Calculating Margin

OCC currently calculates margin requirements for each clearing member's segregated futures customer account held at OCC on a net basis by applying OCC's System for Theoretical Analysis and Numerical Simulations (''STANS''). STANS calculates margin with respect to each account of a clearing member, including each clearing member's futures customer account(s), on a net basis, i.e., considering the positions of a clearing member, including positions held in each clearing member's futures customer account(s), as if they are part of one portfolio and margining accordingly. STANS includes both a net asset value (''NAV'') component and a risk component. The NAV component marks all positions to market and nets long and short positions to determine the NAV of each clearing member's portfolio of customer positions. The NAV component represents the cost to liquidate the portfolio at current prices by selling the net long positions and buying in the net short positions. The risk component is estimated by means of an expected shortfall risk measure obtained from ''Monte Carlo'' simulations designed to measure the additional asset value required in any portfolio to eliminate an unacceptable level of risk that the portfolio would liquidate to a deficit.

OCC presently lacks sufficient information about individual customer positions to calculate margin at the level of each individual customer. However, OCC has been coordinating with other DCOs to establish an industry-wide mechanism for complying with the customer gross margin rule as applied to futures customer accounts. Pursuant to this new system, each DCO's clearing members will submit data files to the DCO identifying positions by numerical customer identifiers.[8] OCC will use this information to calculate margins, using STANS, for each customer identifier of a clearing member and to aggregate those margin calculations to determine the total futures customer margin requirement for the clearing member's segregated futures customer account(s) held at OCC.[9] OCC will then compare the aggregate positions reported by each clearing member with its own records and make any needed adjustments to the margin calculation to ensure all positions on OCC's books are properly margined.

Proposed By-Law and Rule Changes

The proposed changes to OCC's Rules provide for the calculation of margin for segregated futures customer accounts on a gross basis and mandate submission of the clearing member data files necessary to allow OCC to calculate margin at the level of each futures customer. In the event that the data included in these data files is incomplete (for example, if OCC shows positions held in a clearing member's segregated futures accounts, but those positions are not reflected in the data file), OCC will create a separate sub-account to be used for margin calculation purposes only. Positions recorded on OCC's books and records, but not reflected in the data file, will be attributed to this sub-account and a margin amount will be calculated for the sub-account. This margin amount will be added to a clearing member's margin requirement. OCC has determined to adopt this conservative approach to dealing with discrepancies between its own records and clearing member data files in order to ensure that OCC does not collect an inadequate amount of margin from clearing members.

* * * * *

The proposed changes to OCC's By-Laws are consistent with the purposes and requirements of Section 17A of the Exchange Act because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest. The proposed rule change is not inconsistent with any rules of OCC.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed changes contained in the advance notice would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed changes contained in the advance notice may be implemented pursuant to Section 806(e)(1)(G) of Clearing Supervision Act [10] if the Commission does not object to the proposed changes within 60 days of the later of (i) the date that the advance notice was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed changes contained in the

[5] *See* SR–OCC–2011–18.

[6] *See* SR–OCC–2012–06.

[7] Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334, 69439 (November 8, 2011).

[8] The position data provided to OCC by clearing members will not include (a) information with respect to the allocation of margin assets to particular customers, nor (b) information with respect to settlement obligations arising from the exercise, assignment or maturity of cleared contracts. For this reason, OCC will treat all margin assets and settlement obligations for each account to which the gross margin rule applies as being in sub-accounts of the Clearing Member. OCC will calculate margin, using STANS, separately for each sub-account and will aggregate the calculated margin requirements at the level of the clearing member's segregated futures customer account to which the sub-accounts relate.

[9] OCC currently carries the following account types that are segregated pursuant to Section 4d of the Commodity Exchange Act: Segregated Futures Accounts, Segregated Futures Professional Accounts, non-Proprietary X–M accounts, and internal non-proprietary cross-margining accounts. All such accounts would be margined on a gross basis under the proposed amendments to Rule 601.

[10] 12 U.S.C. 5465(e)(1)(G).

advance notice if the Commission objects to the proposed changes.

The Commission may extend the period for review by an additional 60 days if the proposed changes raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. Proposed changes may be implemented in fewer than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed changes and authorizes the clearing agency to implement the proposed changes on an earlier date, subject to any conditions imposed by the Commission.

OCC has also filed the advance notice as a proposed rule change pursuant to Section 19(b)(1) of the Act [11] and Rule 19b-4 thereunder.[12] Pursuant to those provisions, within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve or disapprove the proposed rule change or (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The clearing agency shall post notice on its web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2012–17 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–OCC–2012–17. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_12_17.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2012–17 and should be submitted on or before October 22, 2012.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24038 Filed 9–28–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(1).

[12] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67922; File No. SR–CME–2012–37]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Allow FCM Clearing Member CEOs and CFOs To Designate Authorized Representatives To Approve Certain Disbursements of Customer Funds

September 25, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2012, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME proposes to make amendments to CME Rule 971 regarding the CME's segregation, secured and sequestered requirements for swaps as part of an industry wide initiative that is designed to further safeguard customer funds held at the futures commission merchant (''FCM'') level.

The text of the proposed rule change is available on the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, and at the Commission's Public Reference Room.

II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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 III below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to make rule changes to CME Rule 971 in coordination with the implementation by the National Futures Association (''NFA'') of parallel revisions to NFA rules. The proposed rule changes are designed to further

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

safeguard customer funds held at the FCM level.

CME notes that it recently amended Rule 971 to, among other things, add new subsection D, which requires the chief executive officer (''CEO'') or chief financial officer (''CFO'') of a futures commission merchant (''FCM'') clearing member to pre-approve any disbursement from customer segregated, secured or sequestered funds that exceeds 25% of the excess of such origin and was not for the benefit of a customer.[3] In a continuing effort to enhance regulation of customer funds at the FCM level, and to harmonize industry requirements, CME in this filing now proposes to allow authorized representatives of the FCM's CEO or CFO to pre-approve such disbursements. The FCM's CEO and CFO will remain responsible for any pre-approvals by their authorized representative. The filing would also separately amend Rule 971.A to include a reference to CFTC Regulation 1.49.

CME intends to make the proposed changes effective on September 28, 2012. CME also made a filing, CME Submission 12–281, with its primary regulator, the CFTC, with respect to the proposed changes.

CME believes the proposed changes are consistent with the requirements of the Exchange Act. First, CME, a derivatives clearing organization, is implementing the proposed changes in furtherance with applicable CFTC regulations and Commodity Exchange Act (''CEA''), which contains a number of provisions that are comparable to the policies underlying the Exchange Act, including, for example, promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest. Second, CME believes the proposed changes are specifically designed to protect investors and the public interest because the requirements help safeguard customer funds held at the FCM level.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. 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–CME–2012–37 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–CME–2012–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CME–2012–37 and should be submitted on or before October 22, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to CME.[5] Specifically, the Commission concludes that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to protect investors and the public interest.[6]

In its filing, CME requested that the Commission approve these proposed rule changes on an accelerated basis, so they can become effective on September 28, 2012. CME cites as the reason for this request that the proposed changes are part of an industry wide initiative that is specifically designed to protect investors and the public interest through adoption of requirements that help safeguard customer funds held at the FCM level.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[7] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because the rule change is designed to protect investors and the public interest.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CME–2012–37) be, and hereby is, approved on an accelerated basis.

[3] On November 5, 2012, in connection with implementation of the CFTC's Part 22 Regulations, references to ''sequestered'' accounts in Rule 971 will be changed to Cleared Swaps Customer accounts, and references to CME rules for sequestered accounts will be deleted. These changes were the subject of a separate CME filing with the Commission, SR–CME–2012–30. The text of the proposed changes associated with this filing contains the current ''sequestered'' terminology.

[4] 15 U.S.C. 78s(b).

[5] 15 U.S.C. 78q–1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2012–24039 Filed 9–28–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Diomed Holdings, Inc., Dominion Minerals Corp., EnerLume Energy Management Corp., EPIX Pharmaceuticals, Inc., Familymeds Group, Inc., GlycoGenesys, Inc., and Greater Atlantic Financial Corp.; Order of Suspension of Trading

September 27, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Diomed Holdings, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dominion Minerals Corp. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EnerLume Energy Management Corp. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EPIX Pharmaceuticals, Inc. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Familymeds Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GlycoGenesys, Inc. because it has not filed any periodic reports since the period ended September 30, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Greater Atlantic Financial Corp. because it has not filed any periodic reports since the period ended June 30, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 27, 2012, through 11:59 p.m. EDT on October 10, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–24197 Filed 9–27–12; 4:15 pm]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13309 and #13310]

West Virginia Disaster #WV–00029

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4071–DR), dated 09/19/2012.

Incident: Severe Storms and Straight-line Winds.

Incident Period: 06/29/2012 through 07/08/2012.

Effective Date: 09/19/2012.

Physical Loan Application Deadline Date: 11/19/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/19/2013.

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 09/19/2012, 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 (Physical Damage and Economic Injury Loans): Fayette; Kanawha; Nicholas; Raleigh.

Contiguous Counties (Economic Injury Loans Only):

West Virginia: Boone; Braxton; Clay; Greenbrier; Jackson; Lincoln; Mercer; Putnam; Roane; Summers; Webster; Wyoming.

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 13309B and for economic injury is 133100.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24087 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13294 and #13295]

Louisiana Disaster Number LA–00049

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4080–DR), dated 09/12/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/10/2012.

Effective Date: 09/21/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/12/2013.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Louisiana, dated 09/12/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Parishes: Ascension, East Baton Rouge, Jefferson, Livingston, Plaquemines, Saint Bernard, St John The Baptist, West Feliciana.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24088 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13305 and #13306]

New Jersey Disaster #NJ–00031

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New Jersey dated 09/21/2012.

Incident: Severe Storms and significant Straight-line Winds.

Incident Period: 06/30/2012.

Effective Date: 09/21/2012.

Physical Loan Application Deadline Date: 11/20/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2013.

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: Atlantic.

Contiguous Counties:

New Jersey: Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean.

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 13305 B and for economic injury is 13306 0.

The State which received an EIDL Declaration # is New Jersey.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 21, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–24127 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13239 and #13240]

Ohio Disaster Number OH–00030

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Ohio (FEMA–4077–DR), dated 08/20/2012.

Incident: Severe Storms and Straight-line Winds.

Incident Period: 06/29/2012 through 07/02/2012.

Effective Date: 09/20/2012.

Physical Loan Application Deadline Date: 10/19/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 05/20/2013.

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: The notice of the President's major disaster declaration for private non-profit organizations in the State of Ohio, dated 08/20/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Vinton; Wyandot.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24145 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13317 and #13318]

Alabama Disaster #AL–00044

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 Alabama (FEMA–4082–DR), dated 09/21/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/05/2012.

Effective Date: 09/21/2012.

Physical Loan Application Deadline Date: 11/20/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2013.

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 09/21/2012, 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: Baldwin; Mobile; Pickens'

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 133178 and for economic injury is 133188.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24147 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13307 and #13308]

Pennsylvania Disaster #PA–00053

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 09/21/2012.

Incident: Apartment Building Fire in Bellefonte Borough.

Incident Period: 09/09/2012.

Effective Date: 09/21/2012.

Physical Loan Application Deadline Date: 11/20/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2013.

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: Centre.

Contiguous Counties:

Pennsylvania: Blair; Clearfield; Clinton; Huntingdon; Mifflin; Union.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
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 13307 5 and for economic injury is 13308 0.

The Commonwealth which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 21, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–24142 Filed 9–28–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8047]

Culturally Significant Object Imported for Exhibition Determinations: ''Wtewael's Adam and Eve''

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, 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 object to be included in the exhibition ''Wtewael's Adam and Eve,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Frick Collection, New York, NY, from on or about October 8, 2012, until on or about April 8, 2015, 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 object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: September 24, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–24149 Filed 9–28–12; 8:45 am]

BILLING CODE 4710–05–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 September 8, 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–2012–0152.

Date Filed: September 6, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 27, 2012.

Description: Application of EZjet GT, Inc. d/b/a EZjet Airways (''EZjet'') requesting a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail between any point or points in Guyana and any point or points in the United States, and to the extent necessary EZjet further requests exemption authority to provide the services described above pending issuance of a foreign air carrier permit.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–24074 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–9X–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 September 15, 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–2012–0153.

Date Filed: September 11, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 2, 2012.

Description

Application of LLC Nord Wind requesting a foreign air carrier permit and exemption authority to engage in on-demand charter transportation of passengers, property and mail between point(s) in the Russian Federation and point(s) in the United States, as well as other charters subject to pertinent national, bilateral and international laws and regulations.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–24075 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues. It also withdraws the notice entitled, ''Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues'', published on September 26, 2012.

DATES: The meeting is scheduled for Wednesday, October 17, 2012, starting at 9 a.m. Eastern Daylight Time. Arrangements for oral presentations must be made by October 10, 2012.

ADDRESSES: The Boeing Company, 1200 Wilson Boulevard, Room 234, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Ralen Gao, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–3168, FAX (202) 267–5075, or email at *ralen.gao@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 2), notice is given of an ARAC meeting to be held October 17, 2012.

This document also serves as withdrawal of the meeting notice entitled, ''Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues'' (77 FR 59243), in FR Doc. 2012–23709, that published on September 26, 2012.

The agenda for the October 17, 2012 meeting is as follows:

- Opening Remarks, Review Agenda and Minutes.
- FAA Report.
- ARAC Executive Committee Report.
- Transport Canada Report.
- EASA Report.
- Flight Controls Working Group Report.
- Avionics Systems Harmonization Working Group Report.
- Aging Airplanes Working Group Report.
- Any Other Business.
- Action Items Review.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than October 10, 2012. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

The FAA will arrange for teleconference service for individuals wishing to join in by teleconference if we receive notice by October 10, 2012. For persons participating by telephone, please contact Ralen Gao by email or phone for the teleconference call-in number and passcode. Anyone calling from outside the Arlington, VA, metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by October 10, 2012, to present oral statements at the meeting. Written statements may be presented to the ARAC at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on September 27, 2012.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. 2012–24203 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 187–1F]

Schedule of Charges Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the availability of Advisory Circular (AC) 187–1F which transmits an updated schedule of charges for services of FAA Flight Standards Aviation Safety Inspectors outside the United States. The advisory circular has been updated in accordance with the procedures listed in 14 CFR Part 187, Appendix A.

DATES: This AC is effective on October 1, 2012.

ADDRESSES: *How to obtain copies:* A copy of this publication may be downloaded from: *http://www.faa.gov/documentLibrary/media/Advisory_Circular/.pdf*

FOR FURTHER INFORMATION CONTACT: Ms. Tish Thompkins-Imafidon, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 385–8097.

Issued in Washington, DC, on September 25, 2012.

Raymond Towles,

Deputy Director, Flight Standards Service.

[FR Doc. 2012–23954 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0268]

Hours of Service of Drivers: Trailways Companies Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA has received an application from Trailways companies identified below (''Trailways'') for an exemption from the hours-of-service (HOS) record of duty status provision in 49 CFR 395.8(c) that requires every commercial motor vehicle driver to record his or her duty status for each 24-hour period using methods prescribed in that section. FMCSA considers the request to be on behalf of all regular-route passenger carrier drivers. Trailways requests that these drivers be exempted from the requirement to enter a change in duty status on the daily log for breaks in driving time of 10 minutes or less, for the limited purpose of picking up or setting off passengers, baggage, or small express packages. Such time would not be considered a change of duty status for the purposes of 49 CFR 395.8(c). FMCSA requests public comment on Trailways' application for exemption.

DATES: Comments must be received on or before October 31, 2012.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2012–0268 by any of the following methods:

- *Federal eRulemaking Portal: 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, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the U.S. Department of Transportation's online privacy policy at *www.dot.gov/privacy* or the complete Privacy Act Statement in the **Federal Register** published on December 29, 2010 (75 FR 82133).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Trailways (Adirondack Trailways, Pine Hill Trailways, and New York Trailways) offers scheduled passenger-carrier service throughout New York State and to the nearby Canadian cities of Montreal and Toronto. Trailways states that its exemption application is for fixed-route carriers and their drivers who are often away from the controls of the vehicle for brief periods of time of less than 10 minutes to assist passengers or make one of several passenger pick-ups and drop-offs along the route.

Trailways advises that until March 2011 they and other motor carriers had been operating in accordance with a 1996 interpretation of 49 CFR 395.8(c) issued by the Federal Highway Administration (FHWA). The 1996

interpretation excluded regular-route passenger carrier CMV drivers from having to record a location entry on the driver's record of duty status (RODS) for non-driving periods of less than 10 minutes. The RODS simply showed the stop as driving time. In March 2011, New York State officials began enforcing a literal interpretation of the rule, requiring that a change in duty status be entered on the log any time the driver leaves the operating controls of the CMV. Trailways is concerned that the violations will have a negative effect on the companies' and the drivers' Compliance Safety Accountability ratings, as well as schedules and passenger service because of the delays needed to make the entries.

Instead of complying with the provisions in 49 CFR 395.8(c), Trailways requests that their drivers with regularly scheduled routes be exempted from changing their duty status from ''driving'' to ''on-duty not driving'' when making stops of less than 10 minutes.

Trailways notes that the 1996 rule interpretation reduces the amount of total time a driver can drive in a duty period. Without the 1996 interpretation, the times drivers spend at stops to load passengers, freight, etc. would be logged as on-duty/not driving, increasing the driving time available, but creating an additional administrative distraction every time the driver leaves the controls regardless of the reason or the limited amount of time away from the vehicle controls. Trailways further advises that their carriers provide flag stops and that having to update the log at each flag stop increases the amount of time that the motorcoach may be delaying traffic while waiting for the pick-up and/or discharge of passengers and luggage, and then waiting for the driver to update the log before continuing the route. According to Trailways, in many instances the large number of brief stops will not fit on the log if the driver makes all of the required entries.

Trailways notes that the maximum possible driving time would be reduced and that traffic congestion could be reduced. FMCSA believes this would ensure that operations under the exemption would be at least as safe as operations that comply with the requirements on change of duty status.

FMCSA is extending Trailways' request to be on behalf of all regular-route for-hire passenger-carrier drivers because the same need for the exemption likely applies to them as well as Trailways. Including all regular-route for-hire passenger carrier drivers in the exemption will preclude the need for other carriers to file identical exemption requests, and will provide for consistent enforcement because the same provisions would be applied to all similar scenarios involving brief stops by drivers of these carriers during their regular-route operations.

A copy of Trailways' exemption application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on the Trailways application for an exemption from certain provisions of the driver's record of duty status rules in 49 CFR part 395. The Agency will consider all comments received by close of business on October 31, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: September 21, 2012 .

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–24138 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0362]

Medical Review Board Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Medical Review Board (MRB) public meeting.

SUMMARY: The FMCSA announces that the Agency's MRB will hold a committee meeting on October 19, 2012, in accordance with the Federal Advisory Committee Act (FACA). The meeting will provide the public an opportunity to observe and participate in MRB deliberations and recommendations for updating the field-of-vision (FOV) requirements in the Federal Motor Carrier Safety Regulation (FMCSR) medical standards.

DATES: *Meeting Date:* The MRB meeting will be held from 1 p.m. to 5 p.m. on October 19, 2012. For specific information, please note the preliminary agenda for this meeting in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Written Comment Dates: You may submit written comments to the Federal Docket Management System (FDMS) on this topic beginning Friday, October 5, 2012, through Friday, October 12, 2012.

ADDRESSES: The meeting will take place at the Hilton-Alexandria Old Town, 1767 King Street, Alexandria, VA 22314. You may submit written comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2008–0362 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20003–3302.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. ET., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and FDMS Docket ID for this Notice. Note that DOT posts all comments without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.).

You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477). This information is also available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Angela Ward, Nurse Consultant, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov.* Office

hours are from 8 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Angela Ward on (202) 366–4001 or at *fmcsamedical@dot.gov.*

SUPPLEMENTARY INFORMATION: The preliminary agenda for the meeting includes:

1:00 p.m.–1:15 p.m. Call to Order, Introduction and Agenda Review
1:15 p.m.–1:45 p.m. Field of Vision Updated Evidence Report
1:45 p.m.–2:00 p.m. Break
2:00 p.m.–3:45 p.m. MRB Deliberation on Field of Vision
3:45 p.m.–4:45 p.m. Public Comment Period
4:45 p.m.–5:00 p.m. Call to Adjourn

The agenda and breaks may be adjusted according to schedule changes and other meeting requirements.

Background

The MRB is comprised of five medical experts who serve staggered, 2-year terms. The U.S. Secretary of Transportation announced those currently serving on the MRB on November 2, 2010, and June 13, 2012. Section 4116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), [Pub. L. 109–59, 119 Stat. 1144, Aug. 10, 2005] requires the Secretary of Transportation, with the advice of the MRB and the chief medical examiner, to establish, review, and revise ''medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely.''

The MRB operates in accordance with the Federal Advisory Committee Act (FACA) as announced in the **Federal Register** (70 FR 57642, October 3, 2005). The MRB is charged initially with the review of all current FMCSA medical standards (49 CFR 391.41), as well as proposing new science-based standards and guidelines to ensure that drivers operating commercial motor vehicles (CMVs) in interstate commerce, as defined in 49 CFR 390.5, are physically capable of doing so.

Visual Field Loss in CMV Drivers

Federal safety standards at 49 CFR 391.41(b)(10) state in part, that a person is medically qualified to drive a CMV if the person, ''has a field of vision of at least 70° in the horizontal meridian in each eye.'' The Agency updated the evidence report released in 2008 on visual field loss and CMV driver safety [1] and the MRB will use the updated report in deliberations during the October 19, 2012 meeting. The updated evidence report, titled ''Visual Field Loss and Commercial Motor Vehicle Driver Safety,'' was released in 2012 and is available on the MRB Web site at *http://mrb.fmcsa.dot.gov* and in the docket for this Notice.

Meeting Participation

Attendance is open to the interested public, including medical examiners, motor carriers, drivers, and representatives of medical and scientific associations. Oral comments on the topic from the public will be heard during the last hour (3:45 p.m. to 4:45 p.m.) of the meeting. Oral comments may be limited depending on how many persons wish to comment, and will be accepted on a first come, first serve basis as requestors register at the meeting.

Issued on: September 24, 2012.

Larry W. Minor,

Associate Administrator of Policy.

[FR Doc. 2012–24146 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–EX–P

[1] ''*Vision and Commercial Motor Vehicle Safety,*'' Volume 1: Evidence Report, June 6, 2008.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0279]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 15 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before October 31, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0279 using any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5

p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 15 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Deurice K. Dean

Mr. Dean, age 39, has had coat's disease in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, 20/400. Following an examination in 2012, his ophthalmologist noted, ''He has been driving a truck for the last 12 years and therefore it is reasonable to assume that he has sufficient vision to perform the driving tasks require to operate a commercial vehicle.'' Mr. Dean reported that he has driven straight trucks for 12 years, accumulating 999,996 miles, and tractor-trailer combinations for 6 years, accumulating 1,800 miles. He holds a Class A Commercial Driver's License (CDL) from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Terry J. Edwards

Mr. Edwards, 53, has a prosthetic right eye due to a traumatic injury sustained at age 5. The best corrected visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''I certify that Mr. Edwards meets the requirement as stated and has sufficient vision to perform the driving tasks needed to drive a commercial vehicle.'' Mr. Edwards reported that he has driven straight trucks for 10 years, accumulating 1.2 million miles, and tractor-trailer combinations for 10 years, accumulating 1.5 million miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymundo Flores

Mr. Flores, 48, has complete loss of vision in his left eye due to a traumatic injury sustained at age 2. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2012, his ophthalmologist noted, ''Yes, I (Cheryl Snyder M.D.) certify Mr. Flores has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Flores reported that he has driven straight trucks for 15 years, accumulating 780,000 miles, and tractor-trailer combinations for 9 years, accumulating 702,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles F. Huffman

Mr. Huffman, 53, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, ''I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Huffman reported that he has driven tractor-trailer combinations for 5 years, accumulating 453,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 15 or more mph.

Ivaylo V. Kanchev

Mr. Kanchev, 39, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2012, his optometrist noted, ''Mr. Kanchev has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kanchev reported that he has driven tractor-trailer combinations for 7 years, accumulating 770,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes but one conviction for a moving violation in a CMV; coasting or operating with gears disengaged.

Charlie C. Kimmel

Mr. Kimmel, 56, had a retinal detachment in his right eye due to a traumatic injury sustained 10 years ago. The visual acuity in his right eye is hand motion vision, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''Has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Kimmel reported that he has driven straight trucks for 7 years, accumulating 129,500 miles, and tractor-trailer combinations for 7 years, accumulating 70,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Laine Lewin

Mr. Lewin, 32, has a macular scar in the right eye sustained at age 13. The best corrected visual acuity in his right eye is hand motion vision, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''There is no reason for me to believe that Mr. Lewin would have any difficulty, based on his vision, performing the driving tasks required to operate a commercial motor vehicle safely.'' Mr. Lewin reported that he has driven straight trucks for 3 years, accumulating 2,700 miles, and tractor-trailer combinations for 16 years, accumulating 48,000 miles. He holds a Class D license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy R. Mauldin

Mr. Mauldin, 75, has esotropia in the right eye due to whooping cough sustained at age 2. The best corrected visual acuity in his right eye is hand motion vision, and in his left eye, 20/30. Following an examination in 2012, his optometrist noted, ''it is in my medical opinion the vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Mauldin reported that he has driven straight trucks for 7 years, accumulating 280,000 miles, and tractor-trailer combinations for 8 years, accumulating 480,000 miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny Montemayor

Mr. Montemayor, 61, has a macular scar on his left eye due to a traumatic injury sustained in 1988. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, ''Based upon the patient's history and my examination finding, I am reporting that Mr. Montemayor has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Montemayor reported that he has driven

tractor-trailer combinations for 30 years, accumulating 160,080 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher S. Morgan

Mr. Morgan, 30, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''In my medical opinion, Mr. Morgan has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Morgan reported that he has driven straight trucks for 5 years, accumulating 75,000 miles, and tractor-trailer combinations for 3 years, accumulating 135,000 miles. He holds an operator license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William T. Owens

Mr. Owens, 57, has central serous choroidopathy in his right eye since 2002. The best corrected visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''It is in my medical opinion that Mr. Owens has adequate visual function to perform his work duties and maintain his CDL license in the operation of a commercial vehicle.'' Mr. Owens reported that he has driven tractor-trailer combinations for 35 years, accumulating 3.2 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey S. Pennell

Mr. Pennell, 49, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, ''In my opinion, he has sufficient vision to operate a commercial vehicle.'' Mr. Pennell reported that he has driven straight trucks for 22 years, accumulating 792,000 miles, tractor-trailer combinations for 12 years, accumulating 336,000 miles, and buses for 5 months, accumulating 2,000 miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald R. Strickland

Mr. Strickland, 71, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, ''In Summary, Mr. Strickland has excellent vision in the right eye and, somewhat diminished vision in the left eye. However, it is my medical opinion that Mr. Strickland has sufficient visual acuity to perform the duties required for a commercial vehicle.'' Mr. Strickland reported that he has driven tractor-trailer combinations for 35 years, accumulating 2.6 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Vaughn J. Suhling

Mr. Suhling, 51, has a ocular histoplasmosis scar in his right eye sustained in 1990. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''I believe Mr. Suhling has sufficient vision to perform the driving tasks required to continue to operate a commercial vehicle.'' Mr. Suhling reported that he has driven straight trucks for 35 years, accumulating 420,000 miles, and tractor-trailer combinations for 6 years, accumulating 24,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Max A. Thurman

Mr. Thurman, 75, has a prosthetic left eye due to a traumatic injury sustained 10 years ago. The visual acuity in his right eye is 20/25. Following an examination in 2011, his optometrist noted, ''I certify that patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Thurman reported that he has driven straight trucks for 60 years, accumulating 6,000 miles, and tractor-trailer combinations for 50 years, accumulating 4.5 million miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business October 31, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: September 21, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–24141 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2004–17984; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2008–0174; FMCSA–2010–0161; FMCSA–2010–0187]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 26 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective October 15, 2012. Comments must be received on or before October 31, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2004–17984; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2008–0174; FMCSA–2010–0161; FMCSA–2010–0187], using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the

on-line instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 26 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 26 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Robert L. Aurandt (PA)
Harry R. Brewer (TN)
Julian Collins (GA)
Ivory Davis (MD)
James G. Ethridge (TX)
Joseph H. Fowler (CO)
Edward P. Hynes II (VA)
Richard L. Kelly (MN)
Theodore Kirby (MD)
Kelly R. Konesky (AZ)
Joseph A. Leigh, Jr. (NC)
John L. Lethcoe (NC)
Gregory T. Lingard (MT)
Leonardo Lopez, Jr. (NJ)
Hollis J. Martin (AL)
Ronald J. McTague (OH)
Kevin C. Palmer (OR)
Charles O. Rhodes (FL)
Gordon G. Roth (KS)
Benito Saldana (TX)
Julius Simmons, Jr. (SC)
Richard T. Traigle (LA)
Carl V. Wheeler (NC)
Stephen B. Whitt (NC)
Darrell F. Woosley (IL)
Jason M. Zaragoza (CA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 26 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (69 FR 33997; 69 FR 61292; 71 FR 32183; 71 FR 41310; 71 FR 55820; 73 FR 38497; 73 FR 48271; 73 FR 46973; 73 FR 54888; 73 FR 65009; 75 FR 39725; 75 FR 44050; 74 FR 47883; 75 FR 52063; 75 FR 57105; 75 FR 61833; 75 FR 63257). Each of these 26 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by October 31, 2012.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially

granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 26 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: September 21, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–24143 Filed 9–28–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Research and Innovative Technology Administration

University Transportation Centers Program

AGENCY: Research and Innovative Technology Administration, DOT.

ACTION: Notice of Funding Availability.

SUMMARY: The United States Department of Transportation (the Department) is publishing this notice to give eligible nonprofit institutions of higher learning advance notice that they will have an opportunity to submit grant applications for the University Transportation Centers (UTCs) program. The Department requests public comments on this notice.

Funds for this grant program are authorized beginning on October 1, 2012. In the near future, the Department, via the Research and Innovative Technology Administration (RITA), will release a grant solicitation through Grants.gov and on the UTC Program's Web site, *http://utc.dot.gov,* describing the competition and deadlines for applications. Proposals will be evaluated through a competitive process on the basis of demonstrated ability, research, technology and education resources, leadership, multimodal research capability, and commitment to transportation workforce development programs, technology transfer capability, the use of peer review, and effective partnerships to advance diversity.

DATES: All public comments must be received by October 31, 2012.

ADDRESSES: You may send comments identified by Docket Number RITA–2012–0002 using any of the following methods:

Government-wide rulemaking Web site: http://www.regulations.gov and follow the instructions for sending your comments electronically.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Fax 1–202–493–2251.

Courier: Commercial delivery service, such as, but not limited to the following—Federal Express or United Parcel Service, addressed to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington DC 20590.

Hand Delivery: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

The Department will post all comments received, without change, to *http://dms.dot.gov,* including any personal information. If you mail or hand deliver your comments and want the Department to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Docket: To read background documents or comments received, go to *http://dms.gov* or to Docket Management Facility, U. S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review the Department's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Kevin Womack, Associate Administrator for Research, Development and Technology, mail code RDT–10, Research and Innovative Technology Administration (RITA), 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone Number (202) 366–5306 or Email *Kevin.Womack@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Eligibility
III. Matching Requirements
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VI. Use of Grant Funds
VII. Request for Comments

I. Background

The Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141, Sec. 51001(a)(5)) authorizes $72.5 million for each of the fiscal years 2013 (FY 2013) and 2014 (FY 2014) for up to 35 competitive grants for UTCs. The FY 2013 and FY 2014 funds are subject to an annual obligation limitation. The amount of budget authority available in a given year may be less than the amount authorized for that fiscal year.

MAP–21 authorizes the Secretary of Transportation to make grants to eligible nonprofit institutions of higher education to establish and operate UTCs. RITA will administer the program. The Department will solicit competitive grant applications for national university transportation Centers, regional university transportation Centers, and Tier I university transportation Centers as set forth in MAP–21. UTCs will be selected by the Secretary, in consultation as appropriate with the Administrators of the Federal Highway Administration and the Federal Transit Administration. (49 U.S.C. 5505(b)(4)(B) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)).

The Department plans to competitively select five national UTCs with an award of $3 million each, ten regional UTCs with an award of $2.75 million each, and up to 20 Tier I UTCs with an award of $1.5 million each.

The role of each UTC is to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology

transfer activities; to provide for a critical transportation knowledge base outside of the Department of Transportation; and to address critical workforce needs and educate the next generation of transportation leaders.

II. Eligibility

A UTC must be located in the United States or territories. It may be a single nonprofit institution of higher learning, or a consortium of two or more nonprofit institutions of higher learning.

A regional UTC must be located in the region for which the grant is sought. (49 U.S.C. 5505(c)(3)(A) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). If a regional UTC is a consortium of two or more nonprofit institutions of higher learning, then each institution in the consortium must be located in the region for which the grant is sought.

Institutions may collaborate with state departments of transportation, the private sector, and community, junior, or technical colleges; however, these organizations or others that are not U.S. nonprofit institutions of higher learning may not be considered members of a consortium. The grantee institution (lead institution in the case of a consortium of institutions) will be the direct and primary recipient of UTC program funds, and must perform a substantive role in carrying out UTC activities, and not serve merely as a conduit for awards to other parties.

Applicants may apply for more than one type of grant, but MAP–21 limits the circumstances in which an institution may receive more than one grant. (49 U.S.C. 5505(b)(2) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). These restrictions include:

- A lead institution of a consortium that receives a grant for a National Center or a Regional Center is not eligible to receive a Tier I grant in any capacity (either as a sole institution, a lead institution or a member of a consortium).
- A lead institution of a consortium that receives a grant for a National or Regional Center is not eligible to receive an additional grant as a lead institution or a member of a consortium for a National or Regional Center.
- A sole institution that receives a grant for a National or Regional Center is not eligible to receive an additional grant as a lead institution or a member of a consortium for a National or Regional Center.
- A member of a consortium that receives a grant for a National or Regional Center is not eligible to receive a grant as a sole institution for a National or Regional Center, or as a lead institution for a National or Regional Center.

Applicants that apply for more than one type of grant may face a statutory restriction to being selected for more than one grant.

III. Matching Requirements

Each UTC is required to obtain matching funds from non-federal sources. The amount of matching funds required for a national or regional UTC is 100 percent. The amount of matching funds required for a Tier I UTC is 50 percent. The matching amounts may include the amounts made available to a grant recipient under 23 U.S.C. 504(b) or 505. (49 U.S.C. 5505(c)(3)(D)(ii) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). A Tier I UTC may be exempted from the requirement for matching funds if it demonstrates that providing the required 50 percent matching funds would constitute a financial hardship on the applicant institution. Currently, the Department is developing criteria for determining how an applicant can demonstrate financial hardship. For example, the Department is considering having applicants explain the following:

1. Has your institution received any federal research funding, in the past five years, that required a match which your institution or a collaborative partner provided?
2. Has your institution received any research funds from your state Department of Transportation during the past five years?
3. Does your institution house a federally funded Local Technical Assistance Program (LTAP) Center?
4. Is the size of your institutional endowment greater than $50 million?

One option under consideration is that if an applicant answers ''yes'' to any of the questions then there is a rebuttable presumption that the applicant does not qualify for the exemption for the matching requirement. The Department solicits public comments as to what other hardship criteria or evaluation methods should be used in determining a financial hardship.

IV. Application Process

Full and Open Competition. The Department will conduct the UTC program selection based on principles of full and open competition. Five National Centers, ten Regional Centers, and up to 20 Tier I Centers will be selected from the pool of applicants for each type of UTC.

Subject Matter Focus. An applicant for a National UTC must focus its research on one of the Department's five strategic goals:

1. Safety: Improve public health and safety by reducing transportation-related fatalities and injuries.
2. State of Good Repair: Ensure the U.S. proactively maintains its critical transportation infrastructure in a state of good repair.
3. Economic Competitiveness: Promote transportation policies, investments, and innovations that bring lasting and equitable economic benefits to the Nation and its citizens.
4. Livable Communities: Foster livable communities through place-based policies and investments that increase transportation choices and access to transportation services.
5. Environmental Sustainability: Advance environmentally sustainable policies and investments that reduce carbon and other harmful emissions from transportation sources.

The Department intends to select one national UTC to lead research in each of the five goal areas.

Regional UTCs (one UTC in each of ten Standard Federal Regions, each receiving $2.75M/year) are required to focus on highway and/or public transportation research and education (49 U.S.C. 5505(c)(3)(B)(iii) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). Regional UTCs must be able to conduct research in an area of focus from among ''nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23'' (49 U.S.C. 5505(b)(4)(A) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). One of the regional Centers must focus on ''comprehensive transportation safety'' as its main research issue (49 U.S.C. 5505(c)(3)(E) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). An applicant for a regional UTC must designate the region in which it is applying.

Based on the statute's general selection criteria, the Tier I UTCs (no more than 20 UTCs receiving $1.5M/year) must focus on nonexclusive candidate topic areas that address the research priorities identified in section 503 of title 23 (49 U.S.C. 5505(b)(4)(A) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)). The Department seeks a balanced portfolio of UTCs that supports the Department's Strategic Goals, contains different types and/or sizes of universities, and focuses on improving overall system performance using multiple transportation resources that address multimodal needs. In making awards to Tier I UTCs, consideration will be given

to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

Letter of Intent. The solicitation will require that each applicant submit a non-binding letter of intent approximately one month after the solicitation is announced on the grants.gov and the UTC Program Web site *http://utc.dot.gov.* The letter of intent must identify the following items:

- The category of grant(s) that the applicant will apply for (National, Regional, Tier I);
- The chosen goal in which to focus research, out of the Department's five strategic goals; and
- The members of the consortium, if any, for each of the applications.

Letters of intent will be required so that the Department's review panels, comprising relevant subject-matter experts, may be organized in advance of receipt of final proposals. If an institution intends to apply for more than one UTC grant, a separate letter of intent must be submitted for each intended application.

Selection criteria. The Department will evaluate and select UTC applicants based on the nine selection criteria outlined in MAP–21:

''(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

''(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

''(iii) the ability of the recipient to provide leadership in solving immediate and long range national and regional transportation problems;

''(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

''(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

''(*I*) degree-granting programs; and

''(*II*) outreach activities to attract new entrants into the transportation field;

''(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

''(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

''(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

''(ix) the ability of the recipient to implement the proposed program in a cost efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.''

(49 U.S.C. 5505(b)(4)(B) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)).

These criteria apply to the evaluation and selection of all three categories of UTCs. The following additional selection criteria apply to Regional UTCs and Tier I UTCs:

Regional UTCs. The institution (or lead institution in the case of a consortium) must have a well-established, nationally recognized program in research and education, as shown by:

''(*I*) recent expenditures by the institution in highway or public transportation research;

''(*II*) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

''(*III*) an experienced faculty who specialize in professional fields closely related to highways and public transportation.''

(49 U.S.C. 5505(c)(3)(B)(iii) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)).

Tier I UTCs. Consideration will be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

External Stakeholders. The Department will consult with external stakeholders (including the Transportation Research Board of the National Academy of Sciences, among others), to the maximum extent practicable, to evaluate and review all proposals. (49 U.S.C. 5505(b)(6) as amended by Pub. L. 112–141, Sec. 52009 (effective Oct. 1, 2012)).

V. Program Funding and Award

UTCs will be selected by the Secretary, in consultation as appropriate with the Administrators of the Federal Highway Administration and the Federal Transit Administration.

VI. Use of Grant Funds

According to the terms of the grant agreements, grantees will have until September 30, 2017 to expend both FY13 funds and, assuming availability, FY14 funds.

VII. Request for Comments

Because of the changes made by MAP–21 to the UTC program, this notice invites interested parties to submit comments on any aspect of the Department's implementation of MAP–21 requirements for awarding UTC grants. The Department will consider these comments as it continues to implement the UTC program and develops its future grant solicitation. The instructions for submitting comments can be found in the Addresses section above. Late-filed comments will be considered to the extent practicable.

Issued in Washington, DC, on September 25, 2012.

Ray LaHood,

Secretary.

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BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Privacy Act of 1974, as Amended; System of Records Notice

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of alterations of three Privacy Act systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Financial Crimes Enforcement Network (''FinCEN''), Department of the Treasury (''Treasury''), gives notice of proposed alterations to three existing systems of records entitled ''Treasury/FinCEN .001—FinCEN Investigations and Examinations System (the ''Investigations and Examinations System''),'' ''Treasury/FinCEN .002—Suspicious Activity Report System (the ''SAR System''),'' and ''Treasury/FinCEN .003—Bank Secrecy Act Reports System (the ''BSA System'').'' The systems of records were last published in their entirety on July 21, 2008, at 73 FR 42406, 73 FR 42407, and 73 FR 42409, respectively.

DATES: Comments must be received no later than October 31, 2012. This altered system of records will be effective November 5, 2012 unless the Department receives comments which would result in a contrary determination.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183–0039, Attention: Revisions to PA System of Records-Comments. Comments also may be submitted be electronic mail to the following Internet address:

regcomments@fincen.gov, with the above caption in the body of the text.

Inspection of comments: Comments are available on *www.regulations.gov* and are posted when received. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room, Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll-free call).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, at (703) 905–3590 (not a toll-free call).

SUPPLEMENTARY INFORMATION: FinCEN has conducted a review of its Privacy Act systems of records for compliance with the Privacy Act (5 U.S.C. 552a) and with Appendix 1 to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000, and is proposing to alter three of its current systems of records. FinCEN has a legal requirement to publish such notices.

The systems of records contain information collected under the statutory authority of the Bank Secrecy Act, Title I and II of Public Law 91–508, as amended, and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, or any other authority exercised by FinCEN to compel the reporting of records, such as section 104(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Public Law 111–195. These systems of records may also include information or records that contribute to effective law enforcement and regulation of financial institutions and non-financial trades or businesses, including, but not limited to, subject files on individuals, corporations, and other legal entities. The Bank Secrecy Act authorizes the Secretary of the Treasury, *inter alia,* to require financial institutions and individuals to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures. The regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR chapter X. The Secretary delegated his authority to administer the Bank Secrecy Act to the Director of FinCEN.

Suspicious transaction reporting is required by regulations issued by FinCEN and the supervisory agencies that examine and regulate the safety and soundness of financial institutions, namely the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration (collectively, the ''Federal Supervisory Agencies'').[1] The requirements of FinCEN and the Federal Supervisory Agencies create an integrated system for reporting suspicious activity and known or suspected crimes. Under these requirements, financial institutions file a single uniform Suspicious Activity Report (a ''SAR'') with FinCEN. Prior to the development of the integrated SAR filing system, a financial institution reporting a known or suspected violation of law was required to file multiple copies of criminal referral forms with its Federal Supervisory Agency and Federal law enforcement agencies. Each Federal Supervisory Agency had promulgated a different form. Under the current system, a financial institution meets its obligation to report a known or suspected violation of law by filing one copy of a SAR with FinCEN.

In the course of its review, FinCEN identified a number of non-substantive, clarifying revisions to the SAR System's system of records notice as part of its negotiations on the improvements being made to the data base storing the information contained in FinCEN's systems of records (the ''FinCEN Data Base''), and access and use issues with the Federal Supervisory Agencies. The Federal Supervisory Agencies have indicated broad acceptance of this package of revisions, and have committed to consider harmonizing their own systems of records notices referencing SARs with FinCEN's SAR System notice language, as revised in this notice. To the extent different systems of records notices attempt to communicate the same point, they should use broadly identical language. As a result, a number of the revisions to the SAR System notice are appropriate, and have been adopted in the Investigations and Examinations System notice and the BSA Reports System notice. Additional clarifying revisions have been made to the Investigations and Examinations System notice and the BSA Reports System notice with respect to language that has no direct parallel in the FinCEN SAR System notice.

Consequently, these system notices contain a number of proposed revisions that modify the 2008 FinCEN Privacy Act systems of records notices. Most of these revisions are non-substantive clarifications. FinCEN is legally permitted to make all of these non-substantive revisions set forth in the systems of records notices published below. The revisions to the SAR System notice, as a whole, have been discussed with the Federal Supervisory Agencies and would form a generally acceptable base from which to work towards the goal of a single, uniform federal government standard for public notice of the use of SARs. The non-substantive revisions to the Investigations and Examinations System notice and the BSA Reports System notice generally make those notices more consistent with the SAR System notice, thus producing a clearer and a more accurate reflection of FinCEN's actual practices.

One new routine use is being proposed for the FinCEN .001—FinCEN Investigations and Examinations System notice as follows:

(10) Disclose information or records to any person with whom FinCEN, Enterprise Computing Center Detroit (ECCD), Enterprise Computing Center Martinsburg (ECCM),[2] or a FinCEN Investigations and Examinations System User[3] contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the FinCEN Investigations and Examinations System User.

This routine use is compatible with the purpose for which the records are collected because such disclosures will enable FinCEN to better administer the information it maintains and may facilitate the use of information in accordance with applicable laws and regulations. FinCEN believes that this routine use is implicit in the other routine uses for this notice, but nevertheless is seeking to explicitly add it for the sake of clarity. Other routine uses for this notice would be revised in ways that do not increase the availability of records or amend the manner in which the records may be used.

[1] For purposes of this notice, the term ''Financial Supervisory Agencies'' also includes the now defunct Office of Thrift Supervision (''OTS'') to the extent that the SAR System includes information from reports filed pursuant to rules issued by the OTS.

[2] ''ECCD'' and ''ECCM'' are the IRS data processing sites that provide data processing services to FinCEN, as identified under the header ''System Location'' in each system of records notice.

[3] A FinCEN Investigations and Examinations System User is an agency or organization that has been granted access to the information in this system.

There are no new routine uses being proposed for the FinCEN .002—SAR System notice. The revised routine uses that are being proposed for this notice do not increase the availability of records in that system or amend the manner in which the records may be used. The proposed SAR System notice would delete the routine use relating to the disclosure of SARs to bar associations and other professional organizations, to better reflect FinCEN's actual practice and to conform the SAR System notice withFinCEN's other systems notices.

The new or revised routine uses for the FinCEN .003—BSA Report System notice are as follows:

(1) Provide information or records, electronically or manually, to a BSA Report System User if relevant to the enforcement, regulatory, and supervisory programs and operations of that user;

(2) Provide a BSA Report System User, and if applicable the unit within an Executive Department to which the BSA Report System User reports, with reports that indicate the number, amount, individual identity of participants, and other details concerning events or activities that have been the subject of a BSA Report;

* * * * *

(5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

* * * * *

(7) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a BSA Report System User, on behalf of and with the approval of that BSA Report System User, to another BSA Report System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among BSA Report System Users;

* * * * *

(11) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security consistent with applicable law; and

* * * * *

(13) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a BSA Report System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the BSA Report System User.

These routine uses are compatible with the purpose for which the records are collected because such disclosures will enable FinCEN to better administer the information it maintains and may facilitate the use of the information in accordance with applicable laws and regulations. FinCEN believes that these routine uses are implicit in the other routine uses for this notice, but nevertheless is seeking to explicitly add them for the sake of clarity. Other routine uses for this notice would be revised in ways that do not increase the availability of records or amend the manner in which the records may be used.

Information in the systems of records may be retrieved by personal identifier. The Privacy Act of 1974 requires the Treasury to give general notice, and opportunity to comment, to the public when making substantive changes to these Systems. Although revisions to these systems of records notices are non-substantive, they are numerous. As a result, FinCEN is providing notice and public comment opportunity. The notices were last published in their entirety on July 21, 2008, beginning at 73 FR 42405.

For the reasons set forth above, FinCEN proposes to alter the FinCEN Investigations and Examinations System, the SAR System, and the BSA System, as follows:

Treasury/FinCEN.001

SYSTEM NAME:

FinCEN Investigations and Examinations System—Treasury/FinCEN.

SYSTEM LOCATION:

The Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226–1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106–7015; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183–0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who relate in any manner to official FinCEN efforts in support of the enforcement of the Bank Secrecy Act and money-laundering and other financial crimes. Such individuals may include, but are not limited to, subjects of investigations and prosecutions; suspects in investigations; victims of such crimes; witnesses in such investigations and prosecutions; and close relatives and associates of any of these individuals who may be relevant to an investigation; (2) current and former FinCEN personnel whom FinCEN considers relevant to an investigation or inquiry; and (3) individuals who are the subject of unsolicited information possibly relevant to violations of law or regulations, who offer unsolicited information relating to such violations, who request assistance from FinCEN, and who make inquiries of FinCEN.

CATEGORIES OF RECORDS IN THE SYSTEM:

Every possible type of information that contributes to effective law enforcement and regulation of financial institutions may be maintained in this system of records, including, but not limited to, subject files on individuals, corporations, and other legal entities; information provided pursuant to the Bank Secrecy Act or any other authority exercised by FinCEN to compel the reporting of records; information gathered pursuant to search warrants; statements of witnesses; information relating to past queries of the FinCEN Data Base; criminal referral information; complaint information; identifying information regarding witnesses, relatives, and associates; investigative reports; and intelligence reports. Records include queries and the results of queries made by FinCEN customers (see discussions of SAR System Users and BSA Report System Users in the system of records notices for Suspicious Activity Reporting System—Treasury/FinCEN.002 and Bank Secrecy Act Reports System—Treasury/FinCEN.003, respectively), and by FinCEN employees on behalf of investigatory agencies, financial intelligence units, other FinCEN customers, and FinCEN itself. Authority for maintenance of the system: 5 U.S.C. 301, 31 U.S.C. 5311–5314, 5316–5332; 31 U.S.C. 310; 31 CFR chapter X; Pub. L. 111–195, 124 Stat. 1312; Treasury Department Order 180–01 (September 26, 2002).

PURPOSE(S):

The purpose of this system of records is to support FinCEN's efforts to provide a government-wide, multi-source intelligence and analytical network to support the detection, investigation, and prosecution of domestic and international money laundering and other financial crimes, and other domestic and international criminal, tax, and regulatory investigations and proceedings, including examinations, and to support the conduct of

intelligence or counterintelligence activities, including analysis, to protect against international terrorism. A FinCEN Investigations and Examinations System User is an agency or organization that has been granted access to the information in this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be used to:

(1) Provide responses to queries from Federal, State, territorial and local law enforcement and regulatory agencies, both foreign and domestic, regarding Bank Secrecy Act and other financial crime enforcement;

(2) Furnish information to other Federal, State, local, territorial, and foreign law enforcement and regulatory agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where FinCEN becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(3) Furnish information to the Department of Defense, to support its role in the detection and monitoring of aerial and maritime transit of illegal drugs into the United States and any other role in support of law enforcement that the law may mandate;

(4) Respond to queries from INTERPOL in accordance with agreed coordination procedures between FinCEN and INTERPOL;

(5) Furnish information to individuals and organizations, in the course of enforcement efforts, to the extent necessary to elicit information pertinent to financial law enforcement;

(6) Furnish information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with civil or criminal law proceedings;

(7) Furnish information to the news media in accordance with the guidelines contained in 28 CFR 50.2, which relate to civil and criminal proceedings;

(8) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security consistent with applicable law;

(9) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a FinCEN Investigations and Examinations System User contracts to provide consulting, data processing, clerical, secretarial functions, and other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the FinCEN Investigations and Examinations System User; and

(10) To appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

By name, address, or other unique identifier.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

FinCEN personnel review records in this system each time a record is retrieved and on a periodic basis to see whether it should be retained or modified. Records in this system are updated periodically to reflect disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183–0039.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. Pursuant to the provisions of 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2), this system is exempt from the requirement that the record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2). See 31 CFR 1.36. Treasury/FinCEN.002

SYSTEM NAME:

Suspicious Activity Report System (the ''SAR System'')—Treasury/FinCEN.

SYSTEM LOCATION:

The Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226–1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106–7015; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183–0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The SAR System contains information from forms including, but not limited to: Form TD F 90–22.47 (Suspicious Activity Report by Depository Institutions)—to be replaced by FinCEN 111; FinCEN 101 (Suspicious Activity Report by the Securities and Futures Industries); FinCEN 102 (Suspicious Activity Report by Casinos and Card Clubs)—formerly TD F 90–22.49; FinCEN 109 (Suspicious Activity Report by Money Services Business)—formerly TD F 90–22.56. The SAR System also will contain information from Form 111 (Bank Secrecy Act (BSA) Suspicious Activity Report), after that unified form for reporting suspicious activity is made effective. Information on these forms concerns:

(1) Individuals who or entities that are known or suspected perpetrators of a known or suspected criminal violation, or pattern of criminal violations,

committed or attempted against a financial institution, or participants in a transaction or transactions conducted through the financial institution, that have been reported by the financial institution, either voluntarily, or because such a report is required under the rules of FinCEN and/or the rules of one or more of the Federal Supervisory Agencies.

(2) Individuals who or entities that are participants in transactions, conducted or attempted by, at, or through a financial institution, that have been reported because the institution knows, suspects, or has reason to suspect that: (a) The transaction involves funds derived from illegal activities or is intended or conducted to hide or disguise funds or assets derived from illegal activities as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law; (b) the transaction is designed to evade any regulations promulgated under Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332 (the BSA); (c) the transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (d) the transaction involves use of the financial institution to facilitate criminal activity;

(3) Individuals who are directors, officers, employees, agents, or otherwise affiliated with a financial institution;

(4) Individuals who or entities that are actual or potential victims of a criminal violation or series of violations;

(5) Individuals who are named as possible witnesses in connection with matters arising from any such report;

(6) Individuals or entities named as preparers of any such report;

(7) Individuals or entities named as persons to be contacted for assistance by government agencies in connection with any such report;

(8) Individuals or entities who have or might have information about individuals or criminal violations described above;

(9) Individuals or entities involved in evaluating or investigating any matters arising from any such report;

(10) Individuals, entities or organizations suspected of engaging in terrorist and other criminal activities and any person who may be affiliated with such individuals, entities or organizations;

(11) Individuals or entities named by financial institutions as persons to be contacted for further assistance by government agencies in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activities; and

(12) Individuals or entities involved in evaluating or investigating any matters in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

The SAR System contains information reported to FinCEN by a financial institution (including, but not limited to, a depository institution, a money services business, a broker-dealer in securities, an insurance company, and a casino) on a Suspicious Activity Report (SAR) that is filed voluntarily or as required by FinCEN, one or more of the Federal Supervisory Agencies, and/or any other authority. The SAR System also may contain information that may relate to terrorist or other criminal activity that is reported voluntarily to FinCEN by any individual or entity through any other means, including through FinCEN's Financial Institutions Hotline. The SAR System also may contain information relating to individuals, entities, or organizations that, based on credible evidence, are suspected of engaging in terrorist or other criminal activities, including information provided to FinCEN from financial institutions regarding such individuals, entities, or organizations. SARs contain information about the categories of persons or entities specified in ''Categories of Individuals Covered by the System.'' Authority for maintenance of the system:The SAR System is established and maintained in accordance with 31 U.S.C. 5318(g); 31 U.S.C. 321; and 31 U.S.C. 310; 31 CFR chapter X; Treasury Department Order 180–01 (September 26, 2002).

PURPOSE(S):

The SAR requirements of FinCEN and the Federal Supervisory Agencies create an integrated process for reporting suspicious activity and known or suspected crimes by, at, or through depository institutions, certain of their affiliates, and certain other financial institutions. The process is based on a single, uniform SAR filed with FinCEN. The SAR System has been created, as a key part of this integrated reporting process, to permit coordinated and enhanced analysis and tracking of such information, and rapid dissemination of SAR information. 31 U.S.C. 5318(g)(4)(B), which specifically requires that the agency designated as the repository for SARs refer those reports to appropriate law enforcement, supervisory and intelligence agencies, and 31 U.S.C. 5319 and 31 U.S.C. 310, which require or permit the distribution of reports filed under the Bank Secrecy Act to federal, state and local agencies that engage in criminal, regulatory and tax investigations and proceedings, agencies that engage in intelligence and counterintelligence activities, including analysis, to protect against international terrorism, certain self-regulatory organizations, appropriate foreign agencies, and foreign financial intelligence units. A SAR System User is an agency or organization that has been granted access to the information in this system. SAR System Users include the Federal Supervisory Agencies, Federal law enforcement agencies (including the Federal Bureau of Investigation, the Internal Revenue Service, the United States Secret Service, United States Customs and Border Protection, United States Immigration and Customs Enforcement, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives), appropriate federal agency Inspector General Offices having criminal law enforcement powers under the Inspector General Act of 1978 or comparable authority, the Executive Office of the United States Attorneys and the Offices of the 93 United States Attorneys, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Federal Trade Commission, the Intelligence Community, federal agencies conducting or supporting national security background investigations under Executive Order 12968 as amended, the Government Accountability Office, State financial institution supervisory and regulatory agencies, State tax agencies, State and local law enforcement agencies, and self-regulatory organizations authorized by the SEC and CFTC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Provide information or records, electronically or manually, to a SAR System User relevant to the enforcement, regulatory, and supervisory programs and operations of that User;

(2) Provide a SAR System User, and if applicable the unit within an Executive Department to which the SAR System User reports, with reports that indicate the number, amount,

individual identity, and other details concerning potential violations of law that have been the subject of SARs;

(3) Provide information or records to any appropriately authorized domestic governmental agency or self-regulatory organization charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, or issuing a license, security clearance, contract, grant, or benefit, when relevant to the responsibilities of that agency or organization;

(4) Provide information or records to any appropriately authorized non-United States governmental agency charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, when relevant to the responsibilities of that agency;

(5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

(6) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a SAR System User, on behalf of and with the approval of that SAR System User, to another SAR System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among SAR System Users;

(7) Provide information or records to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which a SAR System User is authorized to appear, when: (a) Any of the following is a party to litigation or has an interest in litigation: (i) the SAR System User or any component thereof, or (ii) any employee of the SAR System User in his or her official capacity, or (iii) any employee of the SAR System User where the Department of Justice or the SAR System User has agreed to represent the employee, or (iv) the United States; and (b) the SAR System User determines that litigation is likely to affect the SAR System User or any of its components; (c) the SAR System User deems the use of such records by the Department of Justice or the SAR System User to be relevant and necessary to the litigation; provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected;

(8) Disclose information or records to individuals or entities to the extent necessary to elicit information pertinent to the investigation, prosecution, or enforcement of civil or criminal statutes, rules, regulations, or orders;

(9) In accordance with Executive Order 12968 (August 2, 1995) as amended, provide information or records to any appropriate government authority to determine eligibility for access to classified information to the extent relevant for matters that are by statute permissible subjects of inquiry;

(10) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security in a manner consistent with applicable law and in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism;

(11) Furnish analytic and statistical reports to government agencies and the public providing information derived from SARs in a form in which individual identities are not revealed;

(12) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a SAR System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the SAR System User; and

(13) Disclose information to appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

Data in the SAR System may be retrieved by particular data fields (e.g., name of financial institution or holding company, type of suspected violation, individual suspect name, witness name, and name of individual authorized to discuss the referral with government officials) or by the use of search and selection criteria.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

Records in this system will be updated periodically to reflect new filings, amendments to existing filings, and disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER AND ADDRESS:

General Policy: Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, Virginia 22183–0039. Computer Systems Maintenance and Administration: Director, IRS Enterprise Computing Center Detroit, 985 Michigan Avenue, Detroit, Michigan 48226–1129 and Director, IRS Enterprise Computing Center Martinsburg, 295 Murall Drive, Kearneysville, West Virginia, 25436.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from: Individuals; financial institutions and certain of their affiliates; Federal Supervisory Agencies; State financial institution supervisory agencies; domestic or foreign government agencies; foreign or international organizations; and commercial sources. Pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2), this system is exempt from the requirement that the record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36. Treasury/FinCEN.003

SYSTEM NAME:

Bank Secrecy Act Reports System (the ''BSA System'')—Treasury/FinCEN.

SYSTEM LOCATION:

Currency and Banking Retrieval System, Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226–1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106–7015; Treasury Enforcement Communications System, United States Customs and Border Protection, Newington, 7681 Boston Boulevard, Springfield, Virginia 22153–3140; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183–0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

See persons identified in the reports specified below under ''Categories of Records in the System.'' Specifically, the BSA System contains information from forms including, but not limited to: FinCEN Form 104 (Currency Transaction Report)—formerly IRS Form 4789; FinCEN Form 103 (Currency Transaction Report by Casinos)—formerly IRS Form 8362; FinCEN Form 103N-rescinded 1/7/07 (Currency Transaction Report by Casinos-Nevada)—formerly IRS Form 8852; FinCEN Form 8300 (Report of Cash Payments Over $10,000 Received in a Trade or Business)—formerly IRS Form 8300; FinCEN Form 105 (Report of International Transportation of Currency or Monetary Instruments)—formerly Customs Form 4790; Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts); FinCEN Form 110 (Designation of Exempt Person)—formerly Treasury Form TDF 90–22.53; and FinCEN Form 107 (Registration of Money Services Businesses)—formerly Treasury Form TDF 90–22.55 (collectively BSA Reports); and Form 112 (Bank Secrecy Act Currency Transaction Report), after that unified form reporting transactions in currency is made effective.

Information on these forms concerns: (1) Individuals or entities filing the reports; (2) individuals or entities that are the subjects of these reports; (3) individuals or entities that are participants in reportable transactions; (4) individuals who are directors, officers, employees, agents, or otherwise affiliated with a financial institution; (5) individuals or entities names as preparers of any such report; (6) individuals named as the owners of monetary instruments; and (7) individuals named as owners of financial accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

The BSA System contains information or reports filed under the Bank Secrecy Act and its implementing regulations (31 CFR chapter X) including, but not limited to, reports made on FinCEN Form 104 (Currency Transaction Report); FinCEN Form 103 (Currency Transaction Report by Casinos); FinCEN Form 103N (Currency Transaction Report by Casinos-Nevada); FinCEN Form 8300 (Report of Cash Payments Over $10,000 Received in a Trade or Business); FinCEN Form 105 (Report of International Transportation of Currency or Monetary Instruments); Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts); FinCEN Form 110 (Designation of Exempt Person); and FinCEN Form 107 (Registration of Money Services Businesses) (collectively BSA Reports). The BSA System also will contain information from Form 112 (Bank Secrecy Act Currency Transaction Report), after that unified form reporting transactions in currency is made effective. These reports include names of financial institutions (including, but not limited to, depository institutions, money services businesses, broker-dealers in securities, insurance companies, and casinos), individuals and other entities filing the reports, names of financial institutions, individuals and entities that are the subjects of the reports, names of the owners of monetary instruments, account numbers, addresses, dates of birth and other personal identifiers, and the amounts of funds, currency or other monetary instruments that are associated with transactions, events, circumstances or decisions that trigger reporting requirements. (This system does not include Suspicious Activity Reports. Those reports are included in another system of records, ''Suspicious Activity Reporting System—Treasury/FinCEN.002'').

Authority for maintenance of the system: The BSA Report System is established and maintained in accordance with 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; 5 U.S.C. 301; 31 U.S.C. 310; 31 CFR chapter X; Treasury Department Order 180–01 (September 26, 2002).

PURPOSE(S):

The Bank Secrecy Act, codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314, 5316–5332 authorizes the Secretary of the Treasury to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory investigations and examinations, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism. The Secretary's authority has been implemented through regulations promulgated at 31 CFR chapter X. The purpose of this system of records is to maintain the information contained in the reports required under these regulations. This information is distributed to federal, state and local agencies that engage in criminal, regulatory and tax investigations and proceedings, agencies that engage in intelligence and counterintelligence activities, certain self-regulatory organizations, appropriate foreign agencies, and foreign financial intelligence units. A BSA Report Systems User is an agency or organization that has been granted access to the information in this system. BSA Report System Users include the Federal Supervisory Agencies, Federal law enforcement agencies (including the Federal Bureau of Investigation, the Internal Revenue Service, the United States Secret Service, United States Customs and Border Protection, United States Immigration and Customs Enforcement, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives), appropriate federal agency Inspector General Offices having criminal law enforcement powers under the Inspector General Act of 1978 or comparable authority, the Executive Office of the United States Attorneys and the Offices of the 93 United States Attorneys, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Federal Trade Commission, the Intelligence Community, federal agencies conducting or supporting national security background investigations under Executive Order 12968 as amended, the Government Accountability Office, State financial institution supervisory and regulatory agencies, State tax agencies, State and local law enforcement agencies, and self-regulatory organizations authorized by the SEC and CFTC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records may be used to:

(1) Provide information or records, electronically or manually, to a BSA Report System User relevant to the enforcement, regulatory, and supervisory programs and operations of that User;

(2) Provide a BSA Report System User, and if applicable the unit within an Executive Department to which the BSA Report System User reports, with reports that indicate the number, amount, individual identity of participants, and other details concerning events or activities that have been the subject of a BSA Report;

(3) Provide information or records to any appropriately authorized domestic governmental agency or self-regulatory organization charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, or issuing a license, contract, grant, or other benefit when relevant to the responsibilities of that agency or organization;

(4) Provide information or records to any appropriately authorized non-United States governmental agency charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, when relevant to the responsibilities of that agency;

(5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

(6) Disclose relevant information on individuals to authorized Federal and State agencies through computer matching in order to help eliminate waste, fraud, and abuse in Government programs and identify individuals who are potentially in violation of civil law, criminal law, or regulation;

(7) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a BSA Report System User, on behalf of and with the approval of that BSA Report System User, to another BSA Report System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among BSA Report System Users;

(8) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(9) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(10) In accordance with Executive Order 12968 (August 2, 1995) as amended, provide information or records to any appropriate government authority to determine eligibility for access to classified information to the extent relevant for matters that are by statute permissible subjects of inquiry;

(11) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security in a manner consistent with applicable law, and in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism;

(12) Provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2, that relates to an agency's functions relating to civil and criminal proceedings;

(13) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a BSA Report System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the BSA Report System User;

(14) Disclose to the public information about Money Services Businesses that have registered with FinCEN pursuant to 31 CFR 1022.380, other than information that consists of trade secrets, or that is privileged and confidential commercial or financial information; and

(15) Disclose information to appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

By name and other unique identifier.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

Records in this system will be updated periodically to reflect new filings, amendments to existing filings, and disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Policy: Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, Virginia 22183–0039. Computer Systems Maintenance and Administration: Director, IRS Enterprise Computing Center Detroit, 985 Michigan Avenue, Detroit, Michigan 48226–1129, Director, IRS Enterprise Computing Center Martinsburg, 295 Murall Drive, Kearneysville, West Virginia, 25436. and Director, Office of Information Technology, U.S. Customs and Border Protection, Newington, 7681 Boston Boulevard, Springfield, Virginia 22153–3140.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from: Individuals; financial institutions and

certain of their affiliates; Federal Supervisory Agencies; State financial institution supervisory agencies; domestic or foreign government agencies; foreign or international organizations; and commercial sources. Pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2), this system is exempt from the requirement that the Record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Dated: September 10, 2012.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2012–24017 Filed 9–28–12; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Supplemental Identification Information for One (1) Individual Designated Pursuant to Executive Order

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing supplemental information for the name of one (1) individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The publishing of updated identification information by the Director of OFAC of one (1) individual in this notice, pursuant to Executive Order 13224, is effective on September 25, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On September 25, 2012 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, supplemented the identification information for one (1) individual whose property and interests in property are blocked pursuant to Executive Order 13224.

The supplementation identification information for the individual is as follows:

Individual

1. JIM'ALE, Ahmed Nur Ali (a.k.a. JIMALE, Ahmad Ali; a.k.a. JIM'ALE, Ahmad Nur Ali; a.k.a. JIMALE, Ahmed Ali; a.k.a. JIMALE, Shaykh Ahmed Nur; a.k.a. JIMALE, Sheikh Ahmed; a.k.a. JUMALE, Ahmed Ali; a.k.a. JUMALE, Ahmed Nur; a.k.a. JUMALI, Ahmed Ali), P.O. Box 3312, Dubai, United Arab Emirates; Mogadishu, Somalia; Djibouti, Djibouti; DOB 20 May 1954; POB Eilbur, Somalia; nationality Somalia; citizen Somalia; alt. citizen Djibouti; Passport A0181988 (Somalia) issued 01 Oct 2001 expires 23 Jan 2011; Additional Djiboutian passport issued in 2010. (individual) [SDGT].

Dated: September 25, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–23980 Filed 9–28–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning; RP 2002–67, Settlement of Section 351 Contingent Liability Tax Shelter Cases; Schedule C (Form 1040), Profit or Loss From Business; Form 8907, Nonconventional Source Fuel Credit; and REG–155929–06, Payout Requirements for Type III Supporting Organizations that are not Functionally Integrated.

DATES: Written comments should be received on or before November 30, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and recordkeeping requirements:

(1) *Title:* Settlement of Section 351 Contingent Liability Tax Shelter Cases.

OMB Number: 1545–1801.

Form Number: RP 2002–67.

Abstract: Revenue Procedure 2002–67 prescribes procedures for taxpayers who elect to participate in a settlement initiative aimed at resolving tax shelter cases involving contingent liability transactions that are the same or similar to those described in Notice 2001–17 (''contingent liability transaction''). There are two resolution methodologies: a fixed concession procedure and a fast track dispute resolution procedure that includes binding arbitration.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and Individuals.

Estimated Number of Respondents: 150.

Estimated Time per Respondent: 50 hrs.

Estimated Total Annual Burden Hours: 7,500.

(2) *Title:* Profit or Loss From Business.

OMB Number: 1545–1974.

Form Number: Schedule C (Form 1040).

Abstract: Schedule C (Form 1040) is used by individuals to report their Business Income. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000,236.

Estimated Time per Respondent: 10 hrs., 22 min.

Estimated Total Annual Reporting Burden hours: 103,702,448.

(3) *Title:* Nonconventional Source Fuel Credit.

OMB Number: 1545–2008.

Form Number: Form 8907.

Abstract: Form 8907 will be used to determine the amount of credit that can be claimed for the production and sale of qualified nonconventional source fuel.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals or Households.

Estimated Number of Respondents: 22,000.

Estimated Time per Respondent: 12 hrs., 41 min.

Estimated Total Annual Burden Hours: 278,960.

(4) *Title:* Payout Requirements for Type III Supporting Organizations that are not Functionally Integrated.

OMB Number: 1545–2157.

Form Number: REG–155929–06.

Abstract: This document contains proposed regulations regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect Type III supporting organizations and their supported organizations.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, State, Local or Tribal Governments.

Estimated Number of Respondents: 4,200.

Estimated Time per Respondent: 2 hour.

Estimated Total Annual Burden Hours: 8,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–23967 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning; Form 4255, Recapture of Investment Credit; Form 5754, Statement by Person(s) Receiving Gambling Winnings; Form 6781, Gains and Losses From Section 1256 Contracts and Straddles; and REG–130477–00; REG–130481–00 (TD 8987), Required Distributions from Retirement Plans (§ 1.403(b)–3).

DATES: Written comments should be received on or before November 30, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* Recapture of Investment Credit.

OMB Number: 1545–0166.

Form Number: 4255.

Abstract: Internal Revenue Code section 50(a) requires that a taxpayer's income tax be increased by the investment credit recapture tax if the taxpayer disposes of investment credit property before the close of the recapture period used in figuring the original investment credit. Form 4255 provides for the computation of the recapture tax.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 13,200.

Estimated Time per Respondent: 9 hrs, 49 min.

Estimated Total Annual Burden Hours: 129,492.

(2) *Title:* Statement by Person(s) Receiving Gambling Winnings.

OMB Number: 1545–0239.

Form Number: 5754.

Abstract: Section 3402(q)(6) of the Internal Revenue Code requires that a statement be given to the payer of certain gambling winnings by the person receiving the winnings when that person is not the winner or is one of a group of winners. It enables the payer to prepare Form W–2G, Certain Gambling Winnings, for each winner to show the winnings taxable to each and the amount withheld. IRS uses the information on Form W–2G to ensure that recipients are properly reporting their income.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 204,000.

Estimated Time per Respondent: 12 min.

Estimated Total Annual Reporting Burden hours: 40,800.

(3) *Title:* Gains and Losses From Section 1256 Contracts and Straddles.

OMB Number: 1545–0644.

Form Number: Form 6781.

Abstract: Form 6781 is used by taxpayers in computing their gains and losses on Internal Revenue Code section 1256 contracts under the marked-to-market rules and gains and losses under Code section 1092 from straddle positions. The data is used to verify that the tax reported accurately reflects any such gains and losses.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations and Individuals.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 9 hrs., 2 min.

Estimated Total Annual Burden Hours: 903,237.

(4) *Title:* Required Distributions from Retirement Plans.

OMB Number: 1545–0996.

Form Number: REG–130477–00; REG–130481–00 (TD 8987—final).

Abstract: These regulations relates to the required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions, and state, local, or tribal governments.

Estimated Number of Respondents: 8,400.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 8,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 24, 2012.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2012–23971 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–485–89 (TD 8400), Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions) (Sections 1.988–0 through 1.988–5); Form 1120–W, Estimated Tax for Corporations; and Form 944, Employer's Annual Employment Tax Return, Form 944(SP), Declaracion Federal Anual de Impuestos del Patrono o Empleador and Form 944–X, Adjusted Employer's Annual Federal Tax Return or Claim for Refund.

DATES: Written comments should be received on or before November 30, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

OMB Number: 1545–1131.

Form Number: INTL–485–89.

Abstract: Internal Revenue Code sections 988(c)(1)(D) and (E) allow taxpayers to make elections concerning the taxation of exchange gain or loss on certain foreign currency denominated transactions. In addition, Code sections 988(a)(1)(B) and 988(d) require taxpayers to identify transactions which generate capital gain or loss or which are hedges of other transactions. This regulation provides guidance on making the elections and complying with the identification rules.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 40 min.

*Estimated Total Annual Burden Ho*urs: 3,333.

(2) *Title:* Estimated Tax for Corporations.

OMB Number: 1545–0975.

Form Number: 1120–W.

Abstract: Under section 6655 of the Internal Revenue Code, a corporation with an income tax liability of $500 or more must make four required installments of estimated tax during the tax year or be subject to a penalty for failure to pay estimated income tax. Form 1120–W is used by corporations to compute their estimated income tax and the amount of each required installment.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

*Estimated Number of Respo*ndents: 900,000.

Estimated Time per Respondent: 14 hrs., 16 min.

Estimated Total Annual Reporting Burden hours: 12,831,766.

(3) *Title:* Employer's Annual Employment Tax Return.

OMB Number: 1545–2007.

Form Number: Forms 944, 944(SP) and 944–X.

Abstract: The information on Form 944 will be collected to ensure the smallest nonagricultural and nonhousehold employers are paying the correct amount of social security tax, Medicare tax, and withheld federal income tax. Information on line 13 will be used to determine if employers made any required deposits of these taxes. Form 944(SP) is the Spanish version of the Form 944. 944–X is used to correct errors made on Form 944.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual or households, businesses and other for-profit organizations, not-for-profit institutions, and State, Local, and tribal Governments.

Estimated Number of Respondents: 1,020,000.

Estimated Time per Respondent: 13 hrs., 44 min.

Estimated Total Annual Burden Hours: 14,019,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 24, 2012.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2012–23974 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Request for Applications for the IRS Advisory Committee on Tax Exempt and Government Entities

AGENCY: Internal Revenue Service (IRS); Tax Exempt and Government Entities Division, Treasury.

ACTION: Notice and request for applicants or nominations.

SUMMARY: The Internal Revenue Service (IRS) is requesting applications for membership to serve on the Advisory Committee on Tax Exempt and Government Entities (ACT). Applications will be accepted for the following vacancies, which will occur in June 2013: Two (2) employee plans and two (2) exempt organizations. To ensure appropriate balance of membership, final selection from qualified candidates will be determined based on experience, qualifications, and other expertise. Members of the ACT may not be federally registered lobbyists.

DATES: Written applications or nominations must be received on or before November 2, 2012.

ADDRESSES: Send all applications and nominations to: Bobby Zarin; Director TE/GE Communications and Liaison; 1111 Constitution Ave., NW.—SE: T: CL–NCA 679; Washington, DC, 20224; FAX: (202) 283–9848 (not a toll-free number); email: *Roberta.b.zarin@irs.gov*

Application: Applicants may use the ACT Application Form on the IRS Web site (IRS.gov) or may send an application by letter with the following information: Name; Other Name(s) Used and Date(s) (required for FBI check); Date of Birth (required for FBI check); City and State of Birth (required for FBI Check); Current Address; Telephone and Fax Numbers; and email address, if any. Applications should also describe and document the proposed member's qualifications for membership on the ACT. Applications should also specify the vacancy for with they wish to be considered.

FOR FURTHER INFORMATION CONTACT: Bobby Zarin (202) 283–8868 (not a toll-free number) or by email at *Roberta.b.zarin@irs.gov*

SUPPLEMENTARY INFORMATION: The Advisory Committee on Tax Exempt and Government Entities (ACT), governed by the Federal Advisory Committee Act, Public Law 92–463, is an organized public forum for discussion of relevant employee plans, exempt organizations, tax-exempt bonds, and federal, state, local, and Indian tribal government issues between officials of the IRS and representatives of the above communities. The ACT also enables the IRS to receive regular input with respect to the development and implementation of IRS policy concerning these communities. ACT members present the interested public's observations about current or proposed IRS policies, programs, and procedures, as well as suggest improvements.

ACT members shall be appointed by the Secretary of the Treasury and shall serve for two-year terms. Terms can be extended for an additional year. ACT members will not be paid for their time or services. ACT members will be reimbursed for their travel-related expenses to attend working sessions and public meetings, in accordance with 5 U.S.C 5703.

The Secretary of the Treasury invites those individuals, organizations, and groups affiliated with employee plans and exempt organizations to nominate individuals for membership on the ACT. Nominations should describe and document the proposed member's qualifications for ACT membership, including the nominee's past or current affiliations and dealings with the particular community or segment of the community that he or she wishes to represent (such as, employee plans). Nominations should also specify the vacancy for which they wish to be considered. The Department of the Treasury seeks a diverse group of members representing a broad spectrum of persons experienced in employee plans and exempt organizations.

Nominees must go through a clearance process before selection by the Department of the Treasury. In accordance with the Department of the Treasury Directive 21–03, the clearance process includes, among other things, pre-appointment and annual tax checks, and an FBI criminal and subversive name check, fingerprint check, and security clearance.

Dated: September 24, 2012.

Mark J. Kirbabas,

Acting Designated Federal Official, Tax Exempt and Government Entities Division, Internal Revenue Service.

[FR Doc. 2012–24021 Filed 9–28–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application for Recognition as Natural Guardian of a Minor Not Under Legal Guardianship and for Disposition of Minor's Interest in Registered Securities.

DATES: Written comments should be received on or before November 29, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@bpd.treas.gov*. The opportunity to make comments online is also available at *www.pracomment.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies should be directed to Bruce A. Sharp, Bureau of the Public Debt, 200 Third Street A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Application for Recognition as Natural Guardian of a Minor Not Under Legal Guardianship and for Disposition of Minor's Interest in Registered Securities.

OMB Number: 1535–0105.

Form Number: PD F 2481.

Abstract: The information is collected to apply for recognition as a natural guardian and request disposition of securities belonging to a minor in situations where a natural guardian is no longer acting or a legal representative is not appointed.

Current Actions: None.

Type of Review: Revision.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,250.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 208.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 2012.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2012–24062 Filed 9–28–12; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW (VA Form 21–0958)]

Agency Information Collection (Notice of Disagreement) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 31, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–NEW (VA Form 21–0958)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, fax (202) 632–7583 or email *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–NEW (VA Form 21–0958).''

SUPPLEMENTARY INFORMATION: *Title:* Notice of Disagreement.

OMB Control Number: 2900–NEW (VA Form 21–0958).

Type of Review: New data collection.

Abstract: Veterans complete VA Form 21–0985 to indicate disagreement with a decision issued by Regional Office. This is the first step in the appeals process. The respondent may or may not continue with an appeal to the Board of Veteran Appeals (BVA) for an appeal, this form will be included in the claim folder as evidence. If the Veteran opts to continue to BVA for an appeal, this form will be included in the claim folder as evidence.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 19, 2012, at page 42556.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 65,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 130,000.

Dated: September 26, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–24076 Filed 9–28–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0564]

Agency Information Collection (Direct Deposit Enrollment) Activities under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 31, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0564'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, FAX (202) 632–7583 or email *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0564.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Direct Deposit Enrollment, VA Form 24–0296.

b. International Direct Deposit Enrollment, VA Form 24–0296a.

OMB Control Number: 2900–0564.

Type of Review: Revision of a currently approved collection.

Abstract: Claimants who wish to have their benefit payments electronically deposited into their financial institution account must complete the appropriate direct deposit enrollment form to enroll the electronic funds transfer program.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 25, 2012, at page 43663.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 24–0296—750 hours.

b. VA Form 24–0296a—500 hours.

Estimated Average Burden per Respondent:

a. VA Form 24–0296—15 minutes.

b. VA Form 24–0296a—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:
a. VA Form 24–0296—3,000.
b. VA Form 24–0296a—2,000.

Dated: September 26, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–24077 Filed 9–28–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0743]

Proposed Information Collection (Pre-Discharge Compensation Claim) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information required from service members to participate in the pre-discharge claims program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0743'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Pre-Discharge Compensation Claim.

OMB Control Number: 2900–0743.

Type of Review: Extension of a currently approved collection.

Abstract: The Pre-Discharge Compensation Claim form will be used by service members to file claims under the Benefits Delivery at Discharge or Quick Start programs. VA will use the data collected as the required certification statement needed from claimants to confirm that the information they provided is true and correct.

Affected Public: Individuals or households.

Estimated Annual Burden: 40,250.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 161,000.

Dated: September 26, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–24078 Filed 9–28–12; 8:45 am]

BILLING CODE 8320–01–P

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 6336/P.L. 112–174
To direct the Joint Committee on the Library to accept a statue depicting Frederick Douglass from the District of Columbia and to provide for the permanent display of the statue in Emancipation Hall of the United States Capitol. (Sept. 20, 2012; 126 Stat. 1311)

Last List August 20, 2012

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
October 1	Oct 16	Oct 22	Oct 31	Nov 5	Nov 15	Nov 30	Dec 31
October 2	Oct 17	Oct 23	Nov 1	Nov 6	Nov 16	Dec 3	Dec 31
October 3	Oct 18	Oct 24	Nov 2	Nov 7	Nov 19	Dec 3	Jan 2
October 4	Oct 19	Oct 25	Nov 5	Nov 8	Nov 19	Dec 3	Jan 2
October 5	Oct 22	Oct 26	Nov 5	Nov 9	Nov 19	Dec 4	Jan 3
October 9	Oct 24	Oct 30	Nov 8	Nov 13	Nov 23	Dec 10	Jan 7
October 10	Oct 25	Oct 31	Nov 9	Nov 14	Nov 26	Dec 10	Jan 8
October 11	Oct 26	Nov 1	Nov 13	Nov 15	Nov 26	Dec 10	Jan 9
October 12	Oct 29	Nov 2	Nov 13	Nov 16	Nov 26	Dec 11	Jan 10
October 15	Oct 30	Nov 5	Nov 14	Nov 19	Nov 29	Dec 14	Jan 14
October 16	Oct 31	Nov 6	Nov 15	Nov 20	Nov 30	Dec 17	Jan 14
October 17	Nov 1	Nov 7	Nov 16	Nov 21	Dec 3	Dec 17	Jan 15
October 18	Nov 2	Nov 8	Nov 19	Nov 23	Dec 3	Dec 17	Jan 16
October 19	Nov 5	Nov 9	Nov 19	Nov 23	Dec 3	Dec 18	Jan 17
October 22	Nov 6	Nov 13	Nov 21	Nov 26	Dec 6	Dec 21	Jan 22
October 23	Nov 7	Nov 13	Nov 23	Nov 27	Dec 7	Dec 24	Jan 22
October 24	Nov 8	Nov 14	Nov 23	Nov 28	Dec 10	Dec 24	Jan 22
October 25	Nov 9	Nov 15	Nov 26	Nov 29	Dec 10	Dec 24	Jan 23
October 26	Nov 13	Nov 16	Nov 26	Nov 30	Dec 10	Dec 26	Jan 24
October 29	Nov 13	Nov 19	Nov 28	Dec 3	Dec 13	Dec 28	Jan 28
October 30	Nov 14	Nov 20	Nov 29	Dec 4	Dec 14	Dec 31	Jan 28
October 31	Nov 15	Nov 21	Nov 30	Dec 5	Dec 17	Dec 31	Jan 29