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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, November 13, 2012
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0829; Directorate Identifier 2012–CE–024–AD; Amendment 39–17221; AD 2012–21–05]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Model G58 airplanes. This AD was prompted by notification from Hawker Beechcraft Corporation that certain affected aircraft were produced with the incorrect gauge wiring installed. This AD requires replacement of the incorrect gauge wiring with the correct wiring required by type design and the aircraft's circuit protection. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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: Richard Rejniak, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@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 August 9, 2012 (77 FR 47568). That NPRM proposed to require replacement of the incorrect gauge wiring with the correct wiring required by type design and the aircraft's circuit protection.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant 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 47568, August 9, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 40 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
Replace supply wire of the three light strobe system.	16 work-hours × $85 per hour = $1,360	$50	$1,410	$56,400

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in

air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–05 Hawker Beechcraft Corporation Airplanes: Amendment 39–17221; Docket No. FAA–2012–0829; Directorate Identifier 2012–CE–024–AD.

(a) Effective Date

This AD is effective November 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation Model G58 airplanes, serial numbers (S/N) TH–2218 through TH–2285, that are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by notification from Hawker Beechcraft Corporation that certain aircraft were produced with the incorrect gauge wiring installed. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Replace Supply Wire of the Three-Light Strobe System

Within the next 50 hours time-in-service (TIS) after November 27, 2012 (the effective date of this AD) or within the next 6 calendar months after November 27, 2012 (the effective date of this AD), whichever occurs first, replace the supply wire of the three-light strobe system. Do the replacement following Hawker Beechcraft Mandatory Service Bulletin No. SB 33–4053, dated February 2011.

(h) Special Flight Permit

Special flight permits are permitted with the following limitation: visual flight rules (VFR) day conditions only.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

(k) 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.

(i) Hawker Beechcraft Mandatory Service Bulletin No. SB 33–4053, dated February 2011.

(ii) Reserved.

(3) For Hawker Beechcraft Corporation service information identified in this AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) 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 Kansas City, Missouri, on October 11, 2012.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25664 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0830; Directorate Identifier 2012–CE–026–AD; Amendment 39–17222; AD 2012–21–06]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Model C90GTi (King Air) airplanes. This AD was prompted by reports of incorrect gauge wires used in certain wiring bundles for the cockpit electrical power for backlighting and instrument panel components. This AD requires replacing incorrect gauge wires in certain electrical power wiring bundles, inspecting associated wiring bundles and components for heat damage, and taking all necessary corrective actions. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact Hawker Beechcraft Corporation, 10511 E. Central Ave., Wichita, Kansas 67206; phone: (316) 676–3100 or (888) 727–4344; fax: (316) 676–3222 or (316) 676–3327; email: *HBC_Parts@hawkerbeechcraft.com; Internet: www.hawkerbeechcraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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: Richard Rejniak, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@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 August 9, 2012 (77 FR 47570). That NPRM proposed to require replacing incorrect gauge wires in certain electrical power wiring bundles, inspecting associated wiring bundles and components for heat damage, and taking all necessary corrective actions.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 47570, August 9, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant 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 47570, August 9, 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 47570, August 9, 2012).

Costs of Compliance

We estimate that this AD affects 85 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
Replace incorrect gauge wires and damaged components.	15 work-hours × $85 per hour = $1,275	$50	$1,325	$112,625

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–06 Hawker Beechcraft Corporation: Amendment 39–17222; Docket No. FAA–2012–0830; Directorate Identifier 2012–CE–026–AD.

(a) Effective Date

This AD is effective November 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation Model C90GTi (King Air) airplanes, serial numbers LJ–1847, and LJ–1853 through LJ–1997, that are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24; Electric power.

(e) Unsafe Condition

This AD was prompted by reports of incorrect gauge wires used in the wiring bundles for the cockpit electrical power for backlighting and instrument panel components. We are issuing this AD to prevent failure of the wiring for the power to the airplane's cockpit backlighting and instrument panel components. Failure of the wiring for the airplane's cockpit backlighting and instrument panel components could cause smoke in the cockpit; loss of power to the multifunction display, the co-pilot's primary flight display, and cockpit lighting; and potential damage to surrounding wires and components.

(f) Compliance

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

(g) Replace Cockpit Electrical Power Wires

Within the next 50 hours time-in-service after November 27, 2012 (the effective date of this AD) or within the next 6 calendar months after November 27, 2012 (the effective date of this AD), whichever occurs first, do the replacements specified below following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010:

(1) Replace wire part number (P/N) CB41–J11–1 on the A124 fuel control panel assembly with a new wire P/N M22759/16–14–9.

(2) Replace wire P/N J26–4–CB308 on the co-pilot primary flight display (PFD) and wire P/N J27–5–CB272 on the multifunction display (MFD) with a new wire P/N M22759/16–16–9.

(h) Inspect Associated Wire Bundles and Components

While doing the replacements required in paragraphs (g)(1) and (g)(2) of this AD at the compliance time specified in paragraph (g) of this AD, visually inspect the associated wire bundles and components for heat damage. Do the inspections following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010.

(i) Repair or Replace Damaged Wires and/or Components

Before further flight after the inspection required in paragraph (h) of this AD, repair or replace any heat damaged wires or components following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010.

(j) Special Flight Permit

Special flight permits are permitted with the following limitation: Visual flight rules (VFR) day conditions only.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

(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.

(i) Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010.

(ii) Reserved.

(3) For Hawker Beechcraft Corporation service information identified in this AD, contact Hawker Beechcraft Corporation, 10511 E. Central Ave., Wichita, Kansas 67206; phone: (316) 676–3100 or (888) 727–4344; fax: (316) 676–3222 or (316) 676–3327; email: *HBC_Parts@hawkerbeechcraft.com;* Internet: *www.hawkerbeechcraft.com.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) 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 Kansas City, Missouri, on October 11, 2012.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25670 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0567; Directorate Identifier 2010–NM–272–AD; Amendment 39–17218; AD 2012–21–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes. This AD was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. This AD requires modification of the fluid drain path in the leading edge area of the wing. We are issuing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle, which could result in a fire.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference

of certain publications listed in the AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*. 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: Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@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 15, 2011 (76 FR 34918). That NPRM proposed to require modifying the fluid drain path in the leading edge area of the wing.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 34918, June 15, 2011) and the FAA's response to each comment.

Support for Proposed Rule (76 FR 34918, June 15, 2011)

Continental Airlines (Continental) stated it agrees with the intent of the proposed rule (76 FR 34918, June 15, 2011).

Requests To Incorporate New Information Notice and Clarify Certain Service Information

Delta Airlines (Delta), American Airlines (American), and Continental requested that we incorporate Boeing Service Bulletin Information Notice 767–57–0121 IN 01, dated March 3, 2011, into the NPRM (76 FR 34918, June 15, 2011). American justified its request by stating this information notice addresses information critical to the correct application of sealant, and, if this information notice is not incorporated by reference in the AD, the modification addressed in Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010, will be incomplete and incorrect. Continental justified its request by stating this information notice corrects and clarifies certain instructions of Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010. Air New Zealand requested clarification of exactly where the sealant specified in steps 7 and 8 of Figures 11 and 12 is to be applied.

Boeing has requested that we allow the use of Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011. Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011, as revised by Boeing Special Attention Service Bulletin 767–57–0121, Revision 2, dated January 10, 2012, includes the information contained in Boeing Service Bulletin Information Notice 767–57–0121 IN 01, dated March 3, 2011.

We agree to incorporate the content of Boeing Service Bulletin Information Notice 767–57–0121 IN 01, dated March 3, 2011, into this final rule. This information notice addresses information critical to the correct application of sealant to the wing ribs. We have changed paragraph (g) of this AD to refer to Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011, as revised by Boeing Special Attention Service Bulletin 767–57–0121, Revision 2, dated January 10, 2012. We also have added paragraph (h) of this AD to give credit for modifications of the fluid drain path in the leading edge area of the wing, if those actions were accomplished before the effective date of this AD using Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010. We have changed the subsequent paragraph designations accordingly.

Request To Withdraw the NPRM (76 FR 34918, June 15, 2011)

UPS requested that we withdraw the NPRM (76 FR 34918, June 15, 2011) and allow compliance with the actions in AD 2011–03–15, Amendment 39–16599 (76 FR 8615, February 15, 2011) to address the identified unsafe condition addressed in the NPRM. AD 2011–03–15 requires inspecting for correct main track downstop assembly, thread protrusion, damaged and missing parts of the main track downstop assemblies of the outboard slats for foreign objects, debris, and damage to the wall of the track housing of the outboard slats, and corrective actions if necessary for certain Model 767 series airplanes. UPS justified its request by stating that Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, which is referred to in AD 2011–03–15, requires checking all the slat track stop bolts and slat track housings for debris and correcting any discrepancies found, which will correct the unsafe condition addressed by the NPRM. UPS also stated concern that the modification required by the NPRM will not address any or all fuel leaking along the leading edge of the wing for Model 767 airplanes, because Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010, was written to change the drain path, but was based on a specific incident for Model 737 airplane wings. UPS stated the modification based on the single incident cannot ensure that all flammable fuel leaks on Model 767 airplanes will be addressed by the modification specified in the NPRM.

We disagree with the request to withdraw the NPRM (76 FR 34918, June 15, 2011). AD 2011–03–15, Amendment 39–16599 (76 FR 8615, February 15, 2011), was issued to address the potential of foreign object damage or slat track stop bolts coming loose in the slat track housings, which could cause a puncture in the track housing when the slat is retracted, and a consequent fuel leak. The NPRM addressed a wing leading edge drain hole that is located close to the engine nozzle such that a fuel leak from any cause, not just from a slat track housing leak, is drained directly on the engine exhaust nozzle and could cause a fuel fire. Accomplishing the actions of AD 2011–03–15 does not remove the risk caused by the drain hole that is addressed by this final rule. We have not changed the final rule in this regard.

Requests To Require New Part Numbers for All Modified Parts

Continental and Delta requested that parts modified by accomplishment of Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010, be identified with new part numbers. Continental justified its request by stating that the new part numbers are needed to prevent the potential of unmodifying a modified airplane in the future by purchasing and installing an unmodified wing panel on that airplane. Delta justified its request by stating that the lack of configuration control in that service bulletin leaves the entire industry at a risk for de-modification. Swapping access panels between airplanes, which is common during C-checks, could create a non-compliance situation if one airplane has been modified and the other has not.

We partially agree. We agree with the intent of this request because it prevents a situation where unmodified non-compliant parts are installed unintentionally due to a lack of configuration control. We disagree with the commenters' request for new part numbers to be assigned to all modified parts, because there are no production equivalent parts for these retrofitted parts. Therefore, we cannot use the production part numbers to identify the parts modified per Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010. However, we have changed paragraph (g) of this final rule to require actions to be done in accordance with Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011, as revised by Boeing Special Attention Service Bulletin 767–57–0121, Revision 2, dated January 10, 2012, which includes part marking instructions for seal doors, wing panels, and ribs to identify that the part was modified per this service information.

Request To Approve Delegation of Alternative Methods of Compliance (AMOCs)

Boeing requested paragraph (h) of the NPRM (76 FR 34918, June 15, 2011) be changed to allow Boeing authority to approve AMOCs under the Boeing Commercial Airplanes Organization Designation Authorization (ODA). Boeing justified its request by stating that it anticipates repairs will be required to panel and ribs etc., when Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010, is embodied, and it would be beneficial if the Boeing ODA is authorized to approve these repairs.

We agree with the request to delegate structural AMOC approval to the Boeing ODA, because we believe that the Boeing ODA will be effective at making those findings. We have added new paragraph (i)(3) to the final rule to delegate structural AMOC approval to the Boeing ODA.

Change to Proposed Applicability

We have changed paragraph (c) of this final rule to refer to airplanes identified in Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 34918, June 15, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 34918, June 15, 2011).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 361 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
Leading edge fluid drainage modification	22 work-hours × $85 per hour = $1,870	$651	$2,521	$910,081

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–02 The Boeing Company: Amendment 39–17218; Docket No. FAA–2011–0567; Directorate Identifier 2010–NM–272–AD.

(a) Effective Date

This AD is effective November 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. We are issuing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle, which could result in a fire.

(f) Compliance

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

(g) Drain Path Modification

Within 60 months after the effective date of this AD, modify the fluid drain path in the leading edge area of the wing, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011, as revised by Boeing Special Attention Service Bulletin 767–57–0121, Revision 2, dated January 10, 2012.

(h) Credit for Previous Actions

This paragraph provides credit for the modification required by paragraph (g) of this AD, if that modification was performed before the effective date of this AD using Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010, which is not incorporated by reference in this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(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) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*.

(k) 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.

(i) Boeing Special Attention Service Bulletin 767–57–0121, Revision 1, dated July 27, 2011.

(ii) Boeing Special Attention Service Bulletin 767–57–0121, Revision 2, dated January 10, 2012.

(3) For service information identified in this AD contact, Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*.

(4) 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.

(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 October 9, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25672 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0448; Directorate Identifier 2010–SW–016–AD; Amendment 39–17223; AD 2012–21–07]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A109S helicopters to require modifying the electrical power distribution system to carry a higher electrical load. This AD was prompted by an electrical failure on an Agusta Model A109E helicopter that resulted from ''inadequate functioning of the 35 amperes (amps) BATT BUS circuit breaker.'' The actions of this AD are intended to require modifying the electrical power distribution system to prevent failure of the circuit breaker, loss of electrical power to instruments powered by the ''BATT BUS'' system, and subsequent loss of control of the helicopter.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact Agusta, S.p.A., Via Giovanni Agusta 520, 21017 Cascina Costa di Samarate (VA), Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39–0331–711180; or at *http://www.agustawestland.com/technical-bullettins*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mark F. Wiley, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *mark.wiley@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On May 9, 2012, at 77 FR 27144, the **Federal Register** published our Notice of Proposed Rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Agusta Model A109S helicopters, serial numbers up to and including 22151. That NPRM proposed to require compliance with specified portions of the manufacturer's service bulletin to modify the electrical power distribution system by installing a ''BATT BUS'' Circuit Breaker Modification Kit, part number 109–0824–73–107, and testing for proper functioning of the electrical system. The proposed requirements were intended to prevent failure of the circuit breaker, loss of electrical power to instruments powered by the ''BATT BUS'' system, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2009–0137, dated June 23, 2009, for the Agusta Model A109E helicopter to correct an unsafe electrical condition caused by an inadequately functioning circuit breaker that was not within design requirements. That EASA AD required installing a ''BATT BUS'' circuit breaker modification kit on Model A109E helicopters. Based on the unsafe condition created by this circuit breaker as described in EASA AD No. 2009–0137, the FAA issued AD 2010–20–21 (75 FR 61341, October 5, 2010; Correction published at 75 FR 65224, October 22, 2010) to require installing a ''BATT BUS'' circuit breaker modification kit on Model A109E helicopters in the United States. Subsequently, EASA issued AD No. 2009–0264, dated December 15, 2009, to correct the same unsafe condition on the Agusta Model A109S helicopter due to the design commonality between the electrical power distribution system of the Model A109E and A109S helicopters. The FAA is issuing this AD for the Model A109S helicopter to correct this same unsafe condition.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (77 FR 27144, May 9, 2012).

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

This AD does not reference the calendar date of June 30, 2010, which has already passed.

Related Service Information

Agusta has issued Bollettino Tecnico No. 109S–35, dated December 11, 2009 (BT), which specifies modifying and testing the ''BATT BUS'' circuit breaker installation. EASA classified this BT as mandatory and issued AD No. 2009–0264, dated December 15, 2009, to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD will affect 15 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. It will take about 8 work-hours per helicopter to install the ''BATT BUS'' circuit breaker modification kit at an average labor rate of $85 per work-hour and required parts will cost about $471 per helicopter. Based on these figures, we estimate the total cost impact of this AD on U.S. operators to be $17,265.

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

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–07—AGUSTA S.p.A. (Agusta): Amendment 39–17223; Docket No. FAA–2012–0448; Directorate Identifier 2010–SW–016–AD.

(a) Applicability

This AD applies to Agusta Model A109S helicopters, serial numbers up to and including 22151, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of the 35 ampere (amp) ''BATT BUS,'' which could result in an electrical failure and fire, loss of electrical power to instruments powered by the ''BATT BUS'' system, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective November 27, 2012.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 50 hours time-in-service, modify the electrical power distribution system by installing the ''BATT BUS'' Circuit Breaker Modification Kit, part number 109–0824–73–107, as depicted in Figures 1 through 3 and by following the Compliance Instructions, paragraphs 4. through 7., of Agusta Bollettino Tecnico No. 109S–35, dated December 11, 2009 (ASB). Thereafter, operationally test the electrical system by following paragraphs 19.1 through 19.7 of the ASB.

(f) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished provided that you do not simultaneously operate the landing light and the search light.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Mark F. Wiley, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *mark.wiley@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD No. 2009–0264, dated December 15, 2009.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2460, DC Power/Distribution System.

(j) 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.

(i) Agusta Bollettino Tecnico No. 109S–35, dated December 11, 2009.

(ii) Reserved.

(3) For Agusta service information identified in this AD, contact Agusta, S.p.A., Via Giovanni Agusta 520, 21017 Cascina Costa di Samarate (VA), Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39–0331–711180; or at *http://www.agustawestland.com/technical-bullettins*.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) 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 Fort Worth, Texas, on October 12, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–25896 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0144; Directorate Identifier 2011–NM–152–AD; Amendment 39–17220; AD 2012–21–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 series airplanes; Model A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by reports of cracked fuel pump canister hoods located in fuel tanks. This AD requires replacing any cracked hood halves of fuel pump canisters. We are issuing this AD to prevent any detached canister hood fragments/debris from being ingested into the fuel feed system, and becoming a potential source of ignition with consequent fire or explosion.

DATES: This AD becomes effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 27, 2012.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 22, 2012 (77 FR 10409). That NPRM proposed to correct

an unsafe condition for the specified products. The MCAI states:

> This [European Aviation Safety Agency (EASA)] AD results from findings of cracked fuel pump canister hoods located in fuel tanks.
>
> From the analyses, laboratory testing and examinations made so far, it is presently thought that vibration-induced fatigue can be identified as the root cause for the cracks found on in-service aeroplanes. However, current data does not yet permit to exclude some other potential contributing factors.
>
> This condition, if not detected and corrected, could lead to detached canister hood fragments/debris to be ingested into the fuel feed system. Also, the metallic debris inside the fuel tank could result in a potential source of ignition and consequent fire or explosion.
>
> For the reasons described above, this [EASA] AD requires repetitive [detailed] inspections of all fuel pump canister hood halves and their replacement if any [cracking] damage is found. This [EASA] AD also requires the inspection results to be reported.
>
> This [EASA] AD is considered to be an interim action. The reports that are required by this [EASA] AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the fuel pump canister hood cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, further AD actions could be considered.

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 have considered the comments received.

Request To Extend Reporting Time

FedEx requested that the time for submitting reports, proposed in the NPRM (77 FR 10409, February 22, 2012) as 30 days, be extended to 90 days, because it might not have immediate access to maintenance vendors' records of the completed tasks, and system-wide reporting can sometimes require longer times.

Although EASA AD 2011–0124, dated June 30, 2011, specifies a 30-day compliance time for submitting reports, we agree with the commenter's request to extend the compliance time for reporting because a delay will not compromise safety. We have changed paragraphs (j)(1) and (j)(2) of this final rule accordingly. This difference has been coordinated with EASA.

Request for Specific Contact Information for Reporting

FedEx requested that we provide specific information for submitting the reports proposed in the NPRM (77 FR 10409, February 22, 2012), including an email address, to facilitate reporting.

We agree with the commenter's request for the reason given, and have added that information in paragraph (j) of this final rule.

Request To Delay the Final Rule Effective Date and Extend the Compliance Time

UPS requested that the AD be effective after Airbus completes certifying the improved design for the fuel pump half hood, projected to be completed in late 2012. UPS also requested an initial compliance time of 36 months (versus the 30 months proposed in the NPRM (77 FR 10409, February 22, 2012)) to allow for purchasing and part lead time. UPS stated that these changes to the NPRM would enable a one-time through-the-fleet solution without the need for repetitive inspections.

We do not agree with the commenter's request for extending the compliance time. In developing an appropriate compliance time for this action, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's and EASA's recommendations for an appropriate compliance time, and the availability of required parts. We have not changed the AD in this regard.

Further, we do not agree with the request for delaying the AD. For continued operational safety, operators need to begin the inspections, and not delay the inspections until the part is certified. We will consider an alternative method of compliance (AMOC) when parts are available. Operators may request approval of an AMOC in accordance with paragraph (k)(1) of this final rule, if sufficient data are submitted to substantiate that the method would provide an acceptable level of safety. We have not changed the AD in this regard.

Airplane Models Added to This AD

We have determined that Model A300 B2–1A and A300 B4–601 airplanes were inadvertently omitted from the Applicability of the NPRM (77 FR 10409, February 22, 2012). We have added those models to the Applicability of this AD in paragraphs (c)(1) and (c)(3) respectively. However, none of the airplanes added to the Applicability of this AD are on the U.S. Register. Therefore, additional notice and opportunity for public comment before issuing this AD are unnecessary.

Explanation of Updated Credit Language

We have revised the heading and wording for paragraph (i) of this AD to provide appropriate credit for previous accomplishment of certain actions. This change does not affect the intent of that paragraph.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously, and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 10409, February 22, 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 10409, February 22, 2012).

Costs of Compliance

We estimate that this AD will affect about 221 products of U.S. registry. We also estimate that it will take up to 12 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $225,420, or $1,020 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour. We have no way of determining the number of products that may need these actions.

We have received no definitive data that would enable us to provide cost estimates for certain parts required for the on-condition actions (replacing fuel pump canister hood halves) specified in 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.

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 10409, February 22, 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 adding the following new AD:

2012–21–04 Airbus: Amendment 39–17220. Docket No. FAA–2012–0144; Directorate Identifier 2011–NM–152–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, all certificated models, all serial numbers.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(3) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes, Model A300 B4–605R and B4–622R airplanes, Model A300 F4–605R and F4–622R airplanes, and Model A300 C4–605R Variant F airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracked fuel pump canister hoods located in fuel tanks. We are issuing this AD to prevent any detached canister hood fragments/debris from being ingested into the fuel feed system, and becoming a potential source of ignition with consequent fire or explosion.

(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 Inspection and Replacement

Within 30 months after the effective date of this AD, do a detailed inspection for cracking of the fuel pump canister hood halves installed on all fuel pump canisters having part numbers (P/N) 2052C11, 2052C12, and C93R51–601, in accordance with the Accomplishment Instructions of the service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable. If any crack is found on any fuel pump canister hood half during any inspection, before further flight, replace the fuel pump canister hood half, in accordance with the Accomplishment Instructions of the service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable.

(1) For Model A300 series airplanes: Airbus Mandatory Service Bulletin A300–28–0089, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(2) For Model A300–600 series airplanes: Airbus Mandatory Service Bulletin A300–28–6106, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(3) For Model A310 series airplanes: Airbus Mandatory Service Bulletin A310–28–2173, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(h) Repetitive Inspections

Within 30 months after accomplishing the actions specified in paragraph (g) of this AD, and thereafter at intervals not to exceed 30 months, repeat the detailed inspection specified in paragraph (g) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the Airbus Mandatory Service Bulletins specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD, which are not incorporated by reference in this AD.

(1) Airbus Mandatory Service Bulletin A300–28–0089, dated January 13, 2011.

(2) Airbus Mandatory Service Bulletin A300–28–6106, dated January 13, 2011.

(3) Airbus Mandatory Service Bulletin A310–28–2173, dated January 13, 2011.

(j) Reporting to Airbus

Submit reports of the findings (both positive and negative) of the inspections required by paragraphs (g) and (h) of this AD to Airbus at the applicable time specified in paragraph (j)(1) or (j)(2) of this AD, using the form ''Inspection Findings—Reporting Sheet'' provided in the service bulletin identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable. Submit information to Airbus, SDC32 Technical Data and Documentation Services, fax (+33) 5 61 93 28 06, email *sb.reporting@airbus.com,* or via the operator's Resident Customer Support Office.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356;

telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0124, dated June 30, 2011; and the Airbus mandatory service bulletins identified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD; for related information.

(1) Airbus Mandatory Service Bulletin A300–28–0089, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(2) Airbus Mandatory Service Bulletin A300–28–6106, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(3) Airbus Mandatory Service Bulletin A310–28–2173, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(m) 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 A300–28–0089, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(ii) Airbus Mandatory Service Bulletin A300–28–6106, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

(iii) Airbus Mandatory Service Bulletin A310–28–2173, Revision 01, including Inspection Findings—Reporting Sheet, dated April 15, 2011.

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

(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 October 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25675 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0619; Directorate Identifier 2007–NM–356–AD; Amendment 39–17219; AD 2012–21–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes. This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. This AD requires repetitive operational tests, and corrective actions if necessary. We are issuing this AD to detect and correct loss of the engine fuel suction feed capability of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket 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: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That SNPRM was published in the **Federal Register** on July 17, 2012 (77 FR 41934). The original NPRM (73 FR 32245, June 6, 2008) proposed to require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. The SNPRM proposed to require repetitive operational tests, and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received from a single commenter: Boeing concurs with the content of the SNPRM (77 FR 41934, July 17, 2012).

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 1,080 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Operational Test	3 work hours × $85 per hour = $255 per engine, per test	$255	$275,400 per engine, per test.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions or the optional terminating action specified in 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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–03 The Boeing Company: Amendment 39–17219; Docket No. FAA–2008–0619; Directorate Identifier 2007–NM–356–AD.

(a) Effective Date

This AD is effective November 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2800, Aircraft Fuel System.

(e) Unsafe Condition

This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. We are issuing this AD to detect and correct loss of the engine fuel suction feed capability of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

(f) Compliance

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

(g) Operational Test and Corrective Actions

Within 30,000 flight hours after the effective date of this AD: Perform an operational test of the engine fuel suction

feed of the fuel system, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–28A2331, dated April 2, 2012. Do all applicable corrective actions before further flight. Repeat the operational test thereafter at intervals not to exceed 30,000 flight hours. Thereafter, except as provided in paragraph (h) of this AD, no alternative procedure or repetitive test intervals will be allowed.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(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.

(i) Related Information

For more information about this AD, contact Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov.*

(j) 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.

(i) Boeing Alert Service Bulletin 747–28A2331, dated April 2, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

(5) 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 October 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25674 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1128; Directorate Identifier 2012–SW–064–AD; Amendment 39–17225; AD 2012–21–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC225 helicopters with certain epicyclic modules installed. This AD requires inspecting the epicyclic module for the presence of a through-hole upstream of the magnetic plug. This AD is prompted by a report of a missing through-hole between the integrated collector and the magnetic plug, which would prevent the flow of chips from the integrated collector to the magnetic plug. This could result in the chip-detector system failing to detect deterioration of the main rotor mast lift bearing (lift bearing). These actions are intended to detect a missing through-hole and prevent lift bearing failure and subsequent loss of control of the helicopter.

DATES: This AD becomes effective November 7, 2012.

We must receive comments on this AD by December 24, 2012.

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

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

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

For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD No. 2012–0144–E, dated August 1, 2012 (EAD 2012–0144–E), to correct an unsafe condition for Eurocopter Model EC225 LP helicopters, delivered before August 1, 2012, with an epicyclic module part number (P/N) 332A32–5021–00 or P/N 332A32–5021–01 installed. EASA advises that the main rotor transmission incorporates a metal chip detection system to detect possible metal deterioration inside the assembly. EASA states the tapered housing of the epicyclic module is fitted with a magnetic plug, located downstream of the integrated collector, designed to detect possible deterioration of the lift bearing by attracting any metallic particles or chips suspended in the oil flow. According to EASA, it was reported that the hole joining the integrated collector and the magnetic plug was not a through hole, which prevented oil flow to the magnetic plug. This condition resulted in a functional loss of the magnetic plug to detect any particles or chips which may have been shed by the lift bearing. Because the root cause of the missing through-hole has not been identified, and is still under investigation, it cannot be determined if this unsafe condition is limited to one helicopter. This condition, if not corrected, could result in failure of the main rotor transmission and subsequent loss of control of the helicopter. To address this condition, EAD 2012–0144–E requires inspecting for the presence of a through hole between the integrated collector and the magnetic plug in the epicyclic module. If the through hole is missing, EAD 2012–0144–E requires repetitive inspections of the two rotor revolution (NR) sensors for the presence of any particles.

FAA's Determination

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

Related Service Information

Eurocopter has published Emergency Alert Service Bulletin (EASB) No. 63A011, Revision 0, dated August 1, 2012, for Model EC225 helicopters. The EASB describes procedures to inspect the epicyclic module chip detection system for the presence of a through-hole in the tapered housing. The EASB also describes procedures for a repetitive inspection for any chips on the two NR sensors if the through-hole is not present.

EASA classified this ASB as mandatory and issued EAD 2012–0144–E to ensure the continued airworthiness of these helicopters.

AD Requirements

This AD requires, within 10 hours time-in-service (TIS), inspecting the epicyclic module for a through-hole above the magnetic plug. If the hole is not a through-hole, this AD requires replacing the epicyclic module before further flight.

Differences Between This AD and the EASA AD

If there is not a through-hole in the epicyclic module, the EASA AD requires a repetitive inspection for any chips on the two NR sensors, while this AD requires replacing the epicyclic module.

Costs of Compliance

We estimate that this AD will affect 3 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Inspecting the epicyclic module will require .5 work-hour, at an average labor rate of $85 per hour, for a cost of $43 per helicopter, and a total cost to U.S. operators of $129. If required, replacing the epicyclic module will require 10 work-hours, at an average labor rate of $85 per hour, and required parts will cost $554,204, for a total cost per helicopter of $555,054.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the required corrective actions must be accomplished within 10 hours TIS.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–21–09 Eurocopter France: Amendment 39–17225; Docket No. FAA–2012–1128; Directorate Identifier 2012–SW–064–AD.

(a) Applicability

This AD applies to Eurocopter France (Eurocopter) Model EC225 LP helicopters, with an epicyclic module, part number (P/N) 332A32–5021–00 or 332A32–5021–01, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a missing through-hole, joining the integrated collector to the magnetic plug. This condition could result in failure of the chip-detector system to detect deterioration of the main rotor mast lift bearing, failure of the lift bearing, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective November 7, 2012.

(d) Compliance.

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 10 hours time-in-service (TIS), inspect the tapered housing of the epicyclic module to determine if there is a through-hole upstream of the magnetic plug.

(i) Remove the magnetic plug and support from the housing.

(ii) Determine if the hole above the magnetic plug is a through-hole as shown in figures 1 and 2 to paragraph (e)(1)(ii) of this AD.

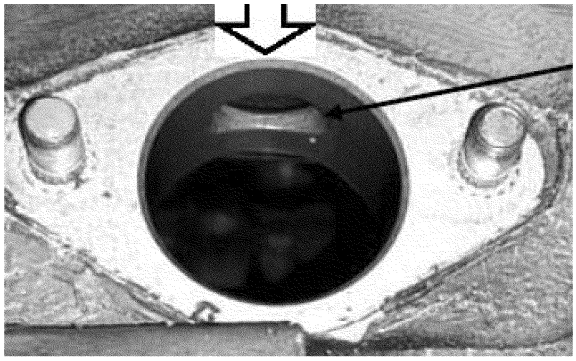

Figure 1 to paragraph (e)(1)(ii)

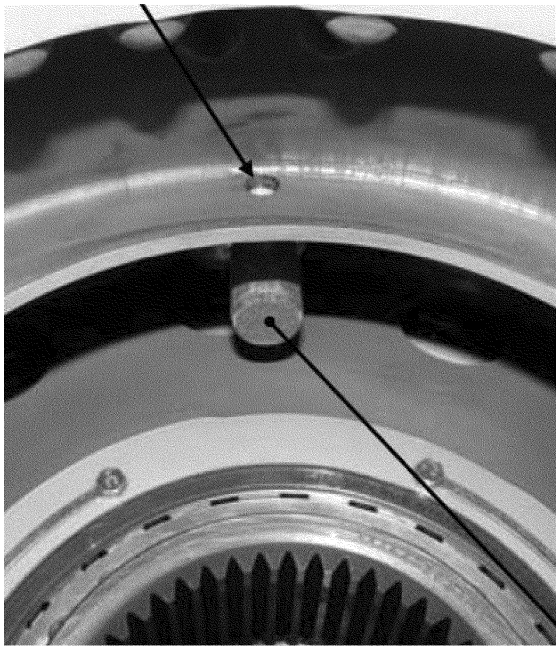

Figure 2 to paragraph (e)(1)(ii)

(2) If the hole above the magnetic plug is not a through-hole, before further flight, replace the epicyclic module with an airworthy epicyclic module.

(3) Do not install an epicyclic module, P/N 332A32–5021–00 or 332A32–5021–01, on

any helicopter unless it has been inspected as required by this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Eurocopter Emergency Alert Service Bulletin No. 63A011, Revision 0, dated August 1, 2012, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency AD No. 2012–0144–E, dated August 1, 2012.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320: Main Rotor Gearbox.

Issued in Fort Worth, Texas, on October 15, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–25894 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0342; Directorate Identifier 2011–SW–028–AD; Amendment 39–17216; AD 2012–21–01]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) to supersede an existing airworthiness directive for MD Helicopters, Inc. (MDHI), Model MD900 helicopters. The existing AD requires a visual inspection, and if necessary, an eddy current inspection of the main rotor lower hub assembly (lower hub) for a crack. If a crack exists, the AD requires replacing the lower hub with an airworthy lower hub before further flight. Because that AD was immediately effective, we declined to require certain long-term actions prior to public comment. This superseding AD will require the same inspections as the existing AD but will also require long-term recurring inspections and replacing the lower hub with an airworthy lower hub. We are issuing this AD to detect a crack in the lower hub and prevent failure of the lower hub and subsequent loss of control of the helicopter.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of November 27, 2012.

ADDRESSES: For service information identified in this AD, contact MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or at *http://www.mdhelicopters.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth Texas 76137.

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, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eric Schrieber, Aviation Safety Engineer, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5348; email *eric.schrieber@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On March 29, 2012, at 77 FR 18963, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to MDHI Model MD900 helicopters. That NPRM proposed to supersede an existing AD to require the same inspections as the existing AD but also require recurring inspections and replacing the lower hub with an airworthy lower hub. The proposed requirements were intended to detect a crack in the lower hub and prevent failure of the lower hub and subsequent loss of control of the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

We reviewed MDHI Service Bulletin SB900–117, dated January 14, 2011 (SB). The SB specifies an initial 100-hour and recurring 300-hour visual and eddy current inspections of the lower hub for a crack and, if a crack exists, replacement of the lower hub with an airworthy lower hub. The SB requires the inspections at the stated intervals or during the next annual inspection, whichever occurs first. The SB also specifies replacing the lower hub within three years.

Costs of Compliance

We estimate that this AD will affect 12 helicopters of U.S. registry.

We estimate the following costs to comply with this AD:

- Visually inspecting the hub. We estimate that will take one work-hour at $85 an hour, for a total cost per helicopter of $85 and a total cost of $1,020 for the fleet.
- Eddy current inspecting the lower hub. We estimate that will take one work-hour at $85 an hour, for a total cost per helicopter of $85 and a total cost of $1,020 for the fleet.
- Replacing the lower hub. We estimate that will take 11 work-hours at $85 an hour for a total labor cost of $935, and that parts will cost $12,480 per hub, for a total cost of $13,415 per

helicopter and a total cost of $160,980 for the fleet.

• The costs for U.S. operators will total $163,020, assuming that the lower hubs for the entire fleet get replaced.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–14–05, Amendment 39–16740 (76 FR 41662, July 15, 2011), and adding the following new AD:

2012–21–01 MD HELICOPTERS, Inc. (MDHI): Amendment 39–17216; Docket No. FAA–2012–0342; Directorate Identifier 2011–SW–028–AD.

(a) Applicability

This AD applies to MDHI Model MD900 helicopters with main rotor lower hub assembly (lower hub) part number 900R2101008–107, with serial numbers beginning with 5009, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the main rotor lower hub assembly (lower hub). This condition could result in failure of the lower hub and subsequent loss of control of the helicopter.

(c) Other Affected ADs

This AD supersedes AD 2011–14–05, amendment 39–16740 (76 FR 41662, July 15, 2011).

(d) Effective Date

This AD becomes effective November 27, 2012.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Within 100 hours time-in-service (TIS) or during the next annual inspection, whichever occurs first, unless done within the last 200 hours TIS, and thereafter at intervals not to exceed 300 hours TIS or during the next annual inspection, whichever occurs first:

(i) Visually inspect the sides and bottom of the area between the arms for the centering bearing and the areas adjacent to the bushings of the lower hub assembly for a crack. If there is a crack, before further flight, replace the lower hub with an airworthy lower hub.

(ii) If the lower hub is not replaced as a result of the visual inspection required by paragraph (f)(1)(i) of this AD, eddy current inspect the lower hub for a crack by following the Accomplishment Instructions, paragraphs 2.A(2) through 2.A.(10)., of MD Helicopters Inc. Service Bulletin SB900–117, dated January 14, 2011. If there is a crack, before further flight, replace the lower hub with an airworthy hub.

(2) The eddy current inspection required by paragraph (f)(1)(ii) of this AD must be done by a Level II technician with ASNT–TC–1A, CEN EN 4179, MIL–STD–410, NAS410, or equivalent certification in eddy current inspections. The technician must have done an eddy current inspection in the last 12 months.

(3) Within 3 years, replace the lower hub with an airworthy lower hub not included in the Applicability section of this AD. This replacement is terminating action for the requirements of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (LAACO), FAA, may approve AMOCs for this AD. Send your proposal to: Eric Schrieber, Aviation Safety Engineer, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5348; email *eric.schrieber@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2597, Equipment/furnishing system wiring.

(i) 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.

(i) MD Helicopters Inc. Service Bulletin SB900–117, dated January 14, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or at *http://www.mdhelicopters.com*.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) 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 Fort Worth, Texas, on October 5, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–25387 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0856; Directorate Identifier 2010–NM–117–AD; Amendment 39–17224; AD 2012–21–08]

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 737–600, –700, –700C, –800, and –900 series airplanes. That AD currently requires installing and testing an updated version of the operational program software (OPS) of the flight control computers (FCCs). This new AD requires an inspection for part numbers of the operational program software of the flight control computers, and corrective actions if necessary. This AD was prompted by reports of undetected erroneous output from a single radio altimeter channel, which resulted in premature autothrottle retard during approach. We are issuing this AD to detect and correct an unsafe condition associated with erroneous output from a radio altimeter channel, which could result in premature autothrottle landing flare retard and the loss of automatic speed control, and consequent loss of control of the airplane.

DATES: This AD is effective November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 12, 2005 (70 FR 17603, April 7, 2005).

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket 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: Gregg Nesemeier, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6479; fax: (425) 917–6590; email: *gregg.nesemeier@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental Notice of Proposed Rulemaking (SNPRM) to amend 14 CFR part 39 to supersede airworthiness directive (AD) 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005). That AD applied to the specified products. That SNPRM published in the **Federal Register** on May 30, 2012 (77 FR 31758). The original NPRM (75 FR 57885, September 23, 2010) proposed to require inspecting for part numbers of the OPS of the FCCs, and doing corrective actions if necessary. The SNPRM contained the same requirements as the original NPRM, but also proposed to supersede an existing AD to require new software.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the SNPRM (77 FR 31758, May 30, 2012) and the FAA's response to each comment.

Support for the SNPRM (77 FR 31758, May 30, 2012)

Boeing supports the SNPRM (77 FR 31758, May 30, 2012).

Requests To Use Alternative Service Information

Europe Airpost and Southwest Airlines requested that we revise the SNPRM (77 FR 31758, May 30, 2012) to include Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, as an alternative method of compliance (AMOC) in the SNPRM.

Europe Airpost explained that Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, takes into account the latest version (and later versions) of the OPS part number (P/N) 2274–COL–AC1–07 (P6.0 version number) and OPS software of the FCC.

Southwest Airlines explained that Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, requires installation of FCC software P/N 2274–COL–AC1–07, and that its latest Model 737–800 deliveries have FCC software P/N 2274–COL–AC1–07 installed. Southwest Airlines stated that it has begun installing this version of the FCC software into all its airplanes, using Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012. Southwest Airlines also reasoned that Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, has already been approved as an AMOC for AD 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005).

We agree with the commenters' requests. We agree to allow use of Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, for the installation actions specified in paragraphs (h)(1)(ii) and (h)(2) of this AD, although the compliance time for this final rule remains the same as proposed: Within 3 months after the effective date of this AD. We have reformatted and revised paragraphs (h)(1) and (h)(2) of this final rule accordingly.

Request To Remove the Phrase ''Fully Interchangeable''

Paragraph (h)(1) of the SNPRM (77 FR 31758, May 30, 2012) specified installation of certain software that is ''fully interchangeable'' with the software specified in table 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010. Southwest Airlines requested that we revise the SNPRM by removing the phrase ''fully interchangeable'' from paragraph (h)(1) of the SNPRM and allowing, as acceptable in paragraphs (h)(1) and (h)(2) of the SNPRM, ''subsequent software versions that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) after April 13,

2010.'' Southwest Airlines explained that Section 2.C.2., Note (b), of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010, which says, ''Do not install previous versions of this software after installation of the new software part number,'' could be conflicting with the phrase ''fully interchangeable.''

We partially agree with the commenter. We agree that previous versions of the software may not be reinstalled after installation of the version specified in this service information because some previous versions contain unsafe conditions. The SNPRM (77 FR 31758, May 30, 2012) only allowed installation of software approved after April 13, 2010, by the Boeing Commercial Airplanes ODA. However, for clarity, we have removed the phrase ''fully interchangeable'' from this final rule.

Although we agree with the intent of the commenter's other suggested changes, we disagree with the proposed wording and find that further clarification is necessary. We have removed the reference to installing later-approved software in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010, because that service bulletin only specifies to install FCC OPS software P/N 2276–COL–AC1–05 or P/N 2275–COL–AC1–06. Also, as stated previously, FCC OPS software P/N 2274–COL–AC1–07 may be installed in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012.

Therefore, in this final rule, the April 13, 2010, date for later-approved software has been changed to May 18, 2012, to remove redundancy and confusion. We have also added the Manager, Seattle Aircraft Certification Office (ACO), FAA, and the Manager, Boeing Aviation Safety Oversight Office (BASOO), FAA, as additional approval authorities for later software versions. We have revised paragraph (h) of the final rule and added a new paragraph (i) to the final rule to reflect these changes.

Removed Paragraph Identifier of Note

We have removed the ''Note 1'' designation from Note 1 of the SNPRM (77 FR 31758, May 30, 2012) and we have included that text in paragraph (c) of this AD.

Added AMOC Delegation

We have added new paragraph (j)(3) to this AD to allow delegation of repair to the Boeing Commercial Airplanes ODA. We have revised subsequent designated paragraph identifiers as appropriate.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously– and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (77 FR 31758, May 30, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 31758, May 30, 2012).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 207 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 [retained actions from existing AD 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005)].	2 work-hours × $85 per hour = $170.	$0	$170	$35,190
Repetitive Inspection	1 work-hour × $85 per hour = $85 per inspection cycle.	N/A	$85 per inspection cycle	$17,595 per inspection cycle

We estimate the following costs to do any necessary installations that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this installation:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Installation	1 work-hour × $85 per hour = $85	$0	$85

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on

the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005), and adding the following new AD:

2012–21–08 The Boeing Company: Amendment 39–17224; Docket No. FAA–2010–0856; Directorate Identifier 2010–NM–117–AD.

(a) Effective Date

This AD is effective November 27, 2012.

(b) Affected ADs

This AD supersedes AD 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005).

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category; delivered with the Rockwell Collins Enhanced Digital Flight Control System (EDFCS), as identified in the variable number table in Section 1.A.1., Effectivity, of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010. This AD is applicable to all airplanes listed in the variable number table, and is not defined by the ''Group 1'' description in Section 1.A. of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Unsafe Condition

This AD was prompted by reports of undetected erroneous output from a single radio altimeter channel, which resulted in premature autothrottle retard during approach. We are issuing this AD to detect and correct an unsafe condition associated with erroneous output from a radio altimeter channel, which could result in premature autothrottle landing flare retard and the loss of automatic speed control, and consequent loss of control of the airplane.

(f) Compliance

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

(g) Retained Software Installation and Test

This paragraph restates the requirements of paragraph (f) of AD 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005). For airplanes identified in Boeing Alert Service Bulletin 737–22A1164, dated May 20, 2004: Within 12 months after May 12, 2005 (the effective date of AD 2005–07–20), install and test an updated version of the operational program software (OPS) of the EDFCS flight control computers (FCCs), in accordance with Boeing Alert Service Bulletin 737–22A1164, dated May 20, 2004. Installing software as required by paragraph (h)(1)(i) or (h)(1)(ii) of this AD, or verifying that the software is installed as specified by paragraph (h)(2) of this AD, or doing the actions specified in paragraph (i) of this AD, terminates the requirements of this paragraph.

(h) New Requirements

Within 3 months after the effective date of this AD: Inspect to determine the part number of the OPS of the FCCs, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010. Installing software as required by paragraph (h)(1)(i) or (h)(1)(ii) of this AD, or verifying that the software is installed as specified by paragraph (h)(2) of this AD, terminates the requirements of paragraph (g) of this AD. Doing the actions specified in paragraph (i) of this AD, terminates the requirements of this paragraph.

(1) For any OPS having a part number identified in table 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010: Before further flight, do the actions specified in paragraph (h)(1)(i) or (h)(1)(ii), as applicable.

(i) Install software identified in table 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010.

(ii) Install software identified in table 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012.

(2) For any OPS having a part number identified in table 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010; or in table 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012: No further action is required by this paragraph.

(i) New Optional Software Installation

Installing a version of the FCC OPS approved after May 18, 2012 (the issue date of Boeing Alert Service Bulletin 737–22A1224) terminates the requirements of paragraphs (g) and (h) of this AD, provided that the conditions specified in paragraphs (i)(1) and (i)(2) of this AD are met.

(1) The version of the FCC OPS must be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; the Manager, Boeing Aviation Safety Oversight Office (BASOO), FAA; or the Boeing Commercial Airplanes Organization Designation Authorization (ODA).

(2) The installation must be done in accordance with a method approved by the Manager, Seattle ACO, FAA; the Manager, BASOO, FAA; or the Boeing Commercial Airplanes ODA.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(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) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD

(4) AMOCs approved previously in accordance with AD 2005–07–20, Amendment 39–14045 (70 FR 17603, April 7, 2005), are approved as AMOCs for the corresponding provisions of this AD.

(k) Related Information

For more information about this AD, contact Gregg Nesemeier, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356;

phone: (425) 917–6479; fax: (425) 917–6590; email: *gregg.nesemeier@faa.gov*.

(l) 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 27, 2012.

(i) Boeing Alert Service Bulletin 737–22A1211, dated April 13, 2010.

(ii) Boeing Alert Service Bulletin 737–22A1224, dated May 18, 2012.

(4) The following service information was approved for IBR on May 12, 2005 (70 FR 17603, April 7, 2005).

(i) Boeing Alert Service Bulletin 737–22A1164, dated May 20, 2004.

(ii) Reserved.

(5) For The Boeing Company service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*.

(6) You may view this service information at 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.

(7) 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 October 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–25782 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0569; Airspace Docket No. 12–ANM–17]

Modification of Class E Airspace; Wolf Point, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Wolf Point, MT. Controlled airspace is necessary to accommodate aircraft using Nondirectional Radio Beacon (NDB) standard instrument approach procedures at L M Clayton Airport, Wolf Point, MT. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, January 10, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On July 24, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify controlled airspace at L M Clayton Airport, Wolf Point, MT (77 FR 43183). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface, at L M Clayton Airport, to accommodate IFR aircraft executing NDB standard instrument approach procedures at the airport. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at L M Clayton Airport, Wolf Point, MT.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012 is amended as follows:

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

* * * * *

ANM MT E5 Wolf Point, MT [Modified]

Wolf Point, L M Clayton Airport, MT
(Lat. 48°05′40″ N., long. 105°34′30″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of L M Clayton Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 48°02′00″ N., long. 104°13′00″ W.; to lat. 47°48′00″ N., long. 104°33′00″ W.; to lat. 47°48′00″ N., long. 106°00′02″ W.; to lat. 48° 20′00″ N., long. 106°00′02″ W.; to lat. 48°20′00″ N., long. 104°17′00″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on October 11, 2012.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–26043 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 522, 524, 529, and 558

[Docket No. FDA–2012–N–0002]

New Animal Drugs; Approvals; Changes of Sponsor; Change of Sponsor's Name; Change of Sponsor's Address; Alfaxalone; Ivermectin and Clorsulon; Narasin; Triptorelin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during September 2012. FDA is also informing the public of the availability of summaries the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect a change of sponsorship for four ophthalmic ointments, a change of sponsor's name, and a change of sponsor's address.

DATES: This rule is effective October 23, 2012.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, email: *george.haibel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations to reflect approval actions during September 2012, as listed in table 1. With respect to these actions, FDA is also informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents through the Center for Veterinary Medicine's FOIA Electronic Reading Room. FOI Summaries may be found listed by application number at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/FOIADrugSummaries/default.htm*. Environmental Assessments (EAs) and Finding Of No Serious Impacts (FONSIs) may be found listed by the established name of the active pharmaceutical ingredient at: *http://www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/EnvironmentalAssessments/ucm300656.htm*.

Also, Fougera Pharmaceuticals, Inc., P.O. Box 2006, 60 Baylis Rd., Melville, NY 11747, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 065–015 for VETROPOLYCIN HC (bacitracin zinc, polymyxin B sulfate, neomycin sulfate, and hydrocortisone) Ophthalmic Ointment, NADA 065–016 for VETROPOLYCIN (bacitracin zinc, neomycin sulfate, and polymyxin B sulfate) Ophthalmic Ointment, NADA 065–460 for VETROCLORICIN (chloramphenicol) Ophthalmic Ointment, and ANADA 200–273 for VETRO–GEN (gentamicin sulfate) Ophthalmic Ointment to Dechra Ltd., Dechra House, Jamage Industrial Estate, Talke Pits, Stoke-on-Trent, Staffordshire, ST7 1XW, United Kingdom. Accordingly, the Agency is amending the regulations in 21 CFR part 524 to reflect these changes.

In addition, UDL Laboratories, Inc., 12720 Dairy Ashford Rd., Sugar Land, TX 77478, has informed FDA that it has changed its name to Mylan Institutional, Inc., and ECO LLC, 8209 Hollister Ave., Las Vegas, NV 89131 has informed FDA of a change of address to 344 Nassau St., Princeton, NJ 08540. Accordingly, the Agency is amending the regulations in 21 CFR 510.600(c) to reflect these changes.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JULY 2012

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR Section	FOIA Summary	NEPA Review
141–339 ...	JBS United Animal Health II LLC, 322 S. Main St., Sheridan, IN 46069.	OVUGEL (triptorelin acetate)	Original approval for the synchronization of time of insemination in weaned sows to facilitate a single fixed-time artificial insemination.	529.2620	yes	CE [1]
141–340 ...	Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285.	SKYCIS 100 (narasin) Type A medicated article.	Original approval for use in medicated feed for increased rate of weight gain and improved feed efficiency in growing-finishing swine.	558.363	yes	EA/ FONSI [2]
141–342 ...	Jurox Pty. Ltd., 85 Gardiner Rd., Rutherford, NSW 2320, Australia.	ALFAXAN (alfaxalone) Intravenous Injectable Anesthetic for Cats and Dogs.	Original approval for the induction and maintenance of anesthesia and for induction of anesthesia followed by maintenance with an inhalant anesthetic, in dogs and cats.	522.52	yes	CE [1]

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JULY 2012—Continued

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR Section	FOIA Summary	NEPA Review
200–466 ...	Sparhawk Laboratories, Inc., 12340 Santa Fe Trail Dr., Ft. Lenexa, KS 66215.	SPARMECTIN Plus Clorsulon (ivermectin and clorsulon) Injection for Cattle.	Original approval as a generic copy of NADA 140–833.	522.1193	yes	CE [1]

[1] The Agency has determined under 21 CFR 25.33 that this action is categorically excluded (CE) from the requirement to submit an EA or an environmental impact statement (EIS) because it is of a type that does not individually or cumulatively have a significant effect on the human environment.
[2] Based on its review of an EA submitted by the sponsor, the Agency has concluded that this action will not have a significant impact on the human environment and that an EIS is not required. A FONSI has been prepared.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 522, 524, and 529

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 522, 524, 529, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Amend § 510.600 as follows:

■ a. In the table in paragraph (c)(1), revise the entry for ''ECO LLC''; alphabetically add entries for ''Jurox Pty. Ltd.'', ''JBS United Animal Health II LLC'', and ''Mylan Institutional, Inc.''; and remove the entry for ''UDL Laboratories, Inc.''; and

■ b. In the table in paragraph (c)(2), numerically add entries for ''049480'' and ''051233'' and revise the entries for ''051079'' and ''066916''.

The additions and revisions read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
ECO LLC, 344 Nassau St., Princeton, NJ 08540	066916
* * * * * * *	
JBS United Animal Health II LLC, 322 S. Main St., Sheridan, IN 46069	051233
* * * * * * *	
Jurox Pty. Ltd., 85 Gardiner Rd., Rutherford, NSW 2320, Australia	049480
* * * * * * *	
Mylan Institutional, Inc., 12720 Dairy Ashford Rd., Sugar Land, TX 77478	051079
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
049480	Jurox Pty. Ltd., 85 Gardiner Rd., Rutherford, NSW 2320, Australia.
* * * * * * *	
051079	Mylan Institutional, Inc., 12720 Dairy Ashford Rd., Sugar Land, TX 77478.
* * * * * * *	
051233	JBS United Animal Health II LLC, 322 S. Main St., Sheridan, IN 46069.
* * * * * * *	
066916	ECO LLC, 344 Nassau St., Princeton, NJ 08540.
* * * * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. Add § 522.52 to read as follows:

§ 522.52 Alfaxalone.

(a) *Specifications.* Each milliliter contains 10 milligrams (mg) alfaxalone.

(b) *Sponsor.* See No. 049480 in § 510.600(c) of this chapter.

(c) *Conditions of use in cats and dogs*—(1) *Amount*—(i) *Cats*—(A) *Induction of general anesthesia.* Administer by intravenous injection over approximately 60 seconds or until clinical signs show the onset of anesthesia, 2.2 to 9.7 mg/kilogram (kg) for cats that did not receive a preanesthetic or 1.0 to 10.8 mg/kg for cats that received a preanesthetic.

(B) *Maintenance of general anesthesia following induction.* Administer an intravenous bolus containing 1.1 to 1.3 mg/kg to provide an additional 7 to 8 minutes of anesthesia in preanesthetized cats; a dose containing 1.4 to 1.5 mg/kg provides an additional 3 to 5 minutes anesthesia in unpreanesthetized cats.

(ii) *Dogs*—(A) *Induction of general anesthesia.* Administer by intravenous injection over approximately 60 seconds or until clinical signs show the onset of anesthesia, 1.5 to 4.5 mg/kg for dogs that did not receive a preanesthetic or 0.2 to 3.5 mg/kg for dogs that received a preanesthetic.

(B) *Maintenance of general anesthesia following induction.* Administer an intravenous bolus containing 1.2 to 1.4 mg/kg to provide an additional 6 to 8 minutes of anesthesia in preanesthetized dogs; a dose of 1.5 to 2.2 mg/kg provides an additional 6 to 8 minutes of anesthesia in unpreanesthetized dogs.

(2) *Indications for use.* For the induction and maintenance of anesthesia and for induction of anesthesia followed by maintenance with an inhalant anesthetic, in dogs and cats.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 5. In § 522.1193, revise paragraph (b) to read as follows:

§ 522.1193 Ivermectin and clorsulon.

* * * * *

(b) *Sponsors.* See Nos. 050604, 055529, and 058005 in § 510.600(c) of this chapter.

* * * * *

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 6. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.154 [Amended]

■ 7. In § 524.154, in paragraph (a)(2), remove ''025463'' and in its place add ''043264''; and in paragraph (b)(3), remove the first sentence.

§ 524.155 [Amended]

■ 8. In § 524.155, in paragraph (a)(2), remove ''025463'' and in its place add ''043264''; and in paragraph (b)(3), remove the first and second sentences.

§ 524.390 [Amended]

■ 9. In § 524.390, in paragraph (b), remove ''025463'' and in its place add ''043264''.

§ 524.1044c [Amended]

■ 10. In § 524.1044c, in paragraph (b), remove ''025463'' and in its place add ''043264''.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 11. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 12. Add § 529.2620 to read as follows:

§ 529.2620 Triptorelin.

(a) *Specifications.* Each milliliter of gel contains 100 micrograms (mcg) triptorelin as triptorelin acetate.

(b) *Sponsor.* See No. 051233 in § 510.600(c) of this chapter.

(c) *Conditions of use in swine*—(1) *Amount.* Administer 200 mcg intravaginally approximately 96 hours after weaning.

(2) *Indications for use.* For the synchronization of time of insemination in weaned sows to facilitate a single fixed-time artificial insemination.

(3) *Limitations.* Not approved for use in gilts. Safety and effectiveness have not been evaluated in these animals. Should not be used in sows with obvious reproductive tract abnormalities.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 13. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 14. In § 558.363, add paragraphs (a)(8) and (c); revise paragraph (d)(1)(xi)(B); redesignate paragraph (d)(2) as paragraph (d)(3); and add new paragraph (d)(2) to read as follows:

§ 558.363 Narasin.

(a) * * *

(8) To 000986: 45.4 grams per pound for use as in paragraph (d)(2) of this section.

* * * * *

(c) *Special considerations.* An expiration date of 2 months (8 weeks) is required for narasin Type C medicated swine feeds.

(d) * * *

(1) * * *

(xi) * * *

(B) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Do not allow adult turkeys, horses, or other equines access to formulations containing narasin. Ingestion of narasin by these species has been fatal. Narasin and tylosin as provided by 000986 in § 510.600(c) of this chapter.

(2) *Growing-finishing swine*—(i) *Amount per ton.* Narasin, 13.6 to 27.2 grams.

(A) *Indications for use.* For increased rate of weight gain when fed for at least 4 weeks.

(B) *Limitations.* Feed continuously for at least 4 weeks to swine during the growing-finishing period as the sole ration. No increased benefit in rate of weight gain has been shown when narasin concentrations in the diet are greater than 13.6 g/ton. Effectiveness has not been demonstrated when fed for durations less than 4 weeks. Do not allow adult turkeys, horses, or other equines access to narasin formulations. Ingestion of narasin by these species has been fatal. Not approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Swine being fed with narasin should not have access to feeds containing pleuromutilins (e.g., tiamulin) as adverse reactions may occur. If signs of toxicity occur, discontinue use.

(ii) *Amount per ton.* Narasin, 18.1 to 27.2 grams.

(A) *Indications for use.* For increased rate of weight gain and improved feed efficiency when fed for at least 4 weeks.

(B) *Limitations.* Feed continuously for at least 4 weeks to swine during the growing-finishing period as the sole ration. No increased benefit in rate of weight gain has been shown when narasin concentrations in the diet are greater than 13.6 g/ton. Effectiveness has not been demonstrated when fed for durations less than 4 weeks. Do not allow adult turkeys, horses, or other equines access to narasin formulations. Ingestion of narasin by these species has been fatal. Not approved for use in

breeding animals because safety and effectiveness have not been evaluated in these animals. Swine being fed with narasin should not have access to feeds containing pleuromutilins (e.g., tiamulin) as adverse reactions may occur. If signs of toxicity occur, discontinue use.

* * * * *

Dated: October 17, 2012.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2012–25989 Filed 10–22–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0939]

RIN 1625–AA00

Safety Zone; Steam Ship Col. James M. Schoonmaker Relocation Project, Maumee River, Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary Safety Zone on the waters of Maumee River, Toledo, Ohio, in support of the relocation of S/S Col. James M. Schoonmaker (hereinafter referred to as 'the Schoonmaker'). This temporary safety zone will encompass all waters of the Maumee River within a 100 yard radius of the Schoonmaker as it makes its transit from International Park to Skyway Marina. This temporary Safety Zone is necessary to protect persons operating around the area.

DATES: This regulation is effective from 10:00 a.m. on October 27, 2012 until 4:00 p.m. on November 3, 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–2012–0939 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0195 in the ''Keyword'' box, and then clicking ''Search.'' This material is 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 rule, call or email LT Mallorie Schell, Prevention Department, MSU Toledo, Coast Guard; telephone (419) 418–6030, email *Mallorie.G.Schell@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Although the Coast Guard has known about the relocation of the Schoonmaker for several weeks, only recently did the Coast Guard become aware of an expected high volume of spectator vessel traffic. Consequently, the need for this safety zone was not identified until there was insufficient time to allow a full comment period to run. Thus, waiting for a comment period to run prior to enforcing this safety zone would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with the heightened spectator activity associated with the relocation of the Schoonmaker.

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 above about not publishing an NPRM, the Coast Guard finds that waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The Great Lakes Historical Society (GLHS) is relocating the Schoonmaker from International Park to Skyway Marina. This relocation is scheduled for October 27, 2012. If the relocation of the vessel on October 27 is cancelled for any reason, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on October 28, 2012. Likewise, if relocation on October 28th is cancelled, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on November 3, 2012. In light of the expected volume of spectator activity, the Captain of the Port Detroit has determined that this operation could pose certain public hazards, such as the increased risk of collisions.

C. Discussion of Rule

With aforementioned hazards in mind, the Captain of the Port Detroit has determined that a safety zone is necessary to ensure the safety of participants and vessels during the operation. The temporary safety zone established herein will be effective and enforced from 10:00 a.m. until 4:00 p.m. on October 27, 2012. If the relocation of the vessel on October 27 is cancelled for any reason, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on October 28, 2012. Likewise, if relocation on October 28 is cancelled, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on November 3, 2012.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Detroit or his designated on scene representative. The Captain of the Port, Sector Detroit or his designated on scene representative may be contacted via VHF Channel 16. All persons and vessels allowed to enter the safety zone shall comply with the instructions of the Coast Guard Captain of the Port, designated on scene patrol personnel, or operation personnel.

D. 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.

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 these 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 temporary safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the temporary safety zone is designed to minimize its impact on navigable waters. Furthermore, the temporary safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the temporary safety zone.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the Maumee River, OH between 10:00 a.m. and 4:00 p.m. on October 27 or 28 or November 3, 2012.

This temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only approximately six hours. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port, Sector Detroit to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

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 this 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. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. 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 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 Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 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.T09–0939 as follows:

§ 165.T09–0939 Safety Zone; Steam Ship Col. James M. Schoonmaker relocation project, Maumee River, Toledo, OH.

(a) *Location.* The following area is a temporary safety zone: all waters of the Maumee River within a 100 yard radius of the S/S Col. James M. Schoonmaker as it makes its transit from International Park at position 41°38′30.00″ N; 083°31′55.50″ W to Skyway Marina at approximate position 41°39′26.30″ N; 083°30′55.25″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective from 10:00 a.m. on October 27, 2012 until 4:00 p.m. on November 3, 2012. It will be enforced from 10:00 a.m. until 4:00 p.m. on October 27, 2012. If the relocation of the vessel on October 27 is cancelled for any reason, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on October 28, 2012. Likewise, if a relocation on October 28 is cancelled, this safety zone will be effective and enforced from 10:00 a.m. until 4:00 p.m. on November 3, 2012.

(c) *Definitions.* The following definitions apply to this section:

(1) ''On-scene Representative'' means any Coast Guard Commissioned, warrant, or petty officer designated by the Captain of the Port Detroit to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) ''Public vessel'' means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated representative. All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or his designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within, or exit the safety zone established in this section when this safety zone is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

(e) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

Dated: October 11, 2012.

D.V. Smith,

Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.

[FR Doc. 2012–26002 Filed 10–22–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0811]

RIN 1625–AA00

Safety Zone: Atlantic Intracoastal Waterway; Oak Island, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the timeframe for a temporary safety zone established on the waters of the Atlantic Intracoastal Waterway at Oak Island, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance on the NC 133 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 311.8, at Oak Island, North Carolina. The safety zone extension will temporarily restrict vessel movement within the designated area starting on December 12, 2012 through February 14, 2013.

DATES: This rule is effective from December 12, 2012 through February 14, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0811. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email CWO4 Joseph M. Edge, U.S. Coast Guard Sector North Carolina; telephone 252–247–4525, email *Joseph.M.Edge@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) for this rule on September 13, 2012 (77 FR 56587). We received no comments in response to the NPRM. No public meeting was requested, and none was held.

B. Basis and Purpose

North Carolina Department of Transportation has awarded a contract to Marine Contracting Corporation of Virginia Beach, Virginia to perform bridge maintenance on the NC 133 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 311.8, at Oak Island, North Carolina. The contract provides for replacing the fender system to commence on September 12, 2012 with a completion date of December 12, 2012. The contractor has been granted an extension by North Carolina Department of Transportation until February 14, 2013 to complete the bridge maintenance. The contractor will utilize a 140 foot deck barge with a 40 foot beam as a work platform and for equipment staging. A safety zone is

needed to provide a safety buffer to transiting vessels as bridge repairs present potential hazards to mariners and property due to reduction of horizontal clearance.

C. Discussion of Comments, Changes and the Final Rule

We received no comments on the proposed rule. No public meeting was requested, and none was held.

The temporary safety zone will encompass the waters directly under the NC 133 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 311.8, at Oak Island, North Carolina (33°55′18″ N/078°04′22″ W). All vessels transiting this section of the waterway requiring a horizontal clearance of greater than 50 feet will be required to make a one hour advanced notification to the work supervisor at the NC 133 Fixed Bridge while the safety zone is in effect. This initial zone (published July 30, 2012, at 77 FR 35906) is in effect from 8 a.m. September 12, 2012 through 8 p.m. December 12, 2012. The extension will be in effect from 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013.

D. 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 and 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. This rule does not restrict traffic from transiting a portion of the Atlantic Intracoastal Waterway, it imposes a one hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 50 feet.

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 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. The Coast Guard received no comments from the Small Business Administration on this rule. 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 would affect the following entities, some of which may be small entities: the owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to this section of the Atlantic Intracoastal Waterway, vessel traffic will be able to request passage by providing a one hour advanced notification. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 proposed rule involves the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0811 to read as follows:

§ 165.T05–0811 Safety Zone, Atlantic Intracoastal Waterway; Oak Island, NC.

(a) Regulated area. The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the NC 133 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 311.8, at Oak Island, North Carolina (33°55′18″ N/078°04′22″ W).

(b) Regulations. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–0811. In addition the following regulations apply:

(1) All vessels requiring greater than 50 feet horizontal clearance to safely transit through the NC 133 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 311.8, at Oak Island, North Carolina must contact the work supervisor on VHF–FM marine band radio channels 13 and 16 one hour in advance of intended transit.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(3) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* (1) Captain of the Port North Carolina means the Commander, Coast Guard Sector North Carolina or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port North Carolina to assist in enforcing the safety zone described in paragraph (a) of this section.

(3) Work Supervisor means the contractor's on site representative.

(d) Enforcement. The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013 unless cancelled earlier by the Captain of the Port.

Dated: October 4, 2012.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.

[FR Doc. 2012–26004 Filed 10–22–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0803]

RIN 1625–AA00

Safety Zone: Leukemia & Lymphoma Light the Night Walk Fireworks Display; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Willamette River between the Steele Bridge and the Burnside Bridge on October 27, 2012 from 6:30 p.m. (P.D.T.) to 7:30 p.m. (P.D.T.). This safety zone is necessary to ensure the safety of the maritime public during a fireworks display, and will do so by prohibiting unauthorized persons and vessels from entering the safety zone unless authorized by the Sector Columbia River Captain of the Port (COTP) or his designated representative.

DATES: This rule is effective from 12:01 a.m. until 11:59 p.m. on October 27, 2012. This rule will be enforced from 6:30 p.m. to 7:30 p.m. on October 27, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0803]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email, ENS Ian McPhillips, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone (503) 240–9319, email *msupdxwwm@uscg.mil.* If you have questions on viewing or submitting

material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this 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) for this rule because to do so would be impracticable since the event will have taken place by the time the notice could be published and comments taken. Coast Guard Marine Safety Unit Portland, OR received information regarding this event September 14, 2012, more than 5,000 people are anticipating this event to commence as scheduled, and rescheduling is not an option.

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 reasons described above. Allowing 30 days for the rule to take effect would be impracticable.

B. Basis and Purpose

The Captain of the Port has been delegated the authority to establish safety zones for safety or environmental purposes in 33 CFR 160.5.

A fireworks display creates hazardous conditions for vessels in the area and the people onboard those vessels due to loud noises, falling debris, and explosions, as well as potential heavy vessel traffic congregating near the display.

To protect mariners and spectators from the hazards described above, a safety zone is needed to help improve the safety of the maritime public in the area during the fireworks display by prohibiting persons and vessels from entering areas where the risks associated with the fireworks display are present.

C. Discussion of the Rule

This rule establishes a temporary safety zone in the Sector Columbia River Captain of the Port Zone. The safety zone will be established on the Willamette River from shore to shore between the Steele Bridge and the Burnside Bridge, and will be enforced during the Leukemia & Lymphoma Light the Night Walk fireworks display from 6:30 p.m. (P.D.T.) to 7:30 p.m. (P.D.T.) on October 27, 2012. All persons and vessels will be prohibited from entering the safety zone during this time unless authorized by the Sector Columbia River Captain of the Port or his designated representative.

D. 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 and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this determination because the safety zone created by this rule will not significantly affect the maritime public as vessels may still transit the zone with prior authorization from the Coast Guard.

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 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. 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 would 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 Willamette River from 6:30 p.m. (P.D.T.) to 7:30 p.m. (P.D.T.) on October 27, 2012.

This safety zone would 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 1 hour in the evening. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Captain of the Port. Before the activation of the zone, we will issue maritime advisories widely available to users of the river.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER**

INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 around the fall out area of a fireworks display. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–231 to read as follows:

§ 165.T13–231 Safety Zone; Leukemia & Lymphoma Light the Night Walk Fireworks Display; Willamette River, Portland, OR.

(a) *Location.* The following area is a safety zone: All waters of the Willamette River at Portland, OR, bounded by the Steele Bridge to the north, the Burnside Bridge to the south, and the shoreline to the east and west.

(b) *Regulations.* In accordance with the general regulations in § 165.23 if this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Enforcement period.* This section will be enforced October 27, 2012 from 6:30 p.m. (P.D.T.) to 7:30 p.m. (P.D.T.).

Dated: October 11, 2012.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2012–26003 Filed 10–22–12; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 20

International Mail Manual; Incorporation by Reference

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service announces the issuance of the *Mailing Standards of the United States Postal Service, International Mail Manual* (IMM®) dated June 24, 2012, updated with *Postal Bulletin* revisions through June 14, 2012, and its incorporation by reference in the Code of Federal Regulations.

DATES: This final rule is effective on October 23, 2012. The incorporation by reference of the IMM is approved by the Director of the **Federal Register** as of [October 23, 2012.

FOR FURTHER INFORMATION CONTACT: Lizbeth Dobbins, (202) 268–3789.

SUPPLEMENTARY INFORMATION: The *International Mail Manual* was issued on June 24, 2012, and was updated with postal bulletin revisions through June 14, 2012. It replaced all previous editions. The IMM continues to enable the Postal Service to fulfill its long-standing mission of providing affordable, universal mail service. It continues to: (1) Increase the user's ability to find information; (2) increase the users' confidence that they have found the information they need; and (3) reduce the need to consult multiple sources to locate necessary information. The provisions throughout this issue support the standards and mail preparation changes implemented since the version of April 17, 2011. The *International Mail Manual* is available to the public on the Postal Explorer® Internet site at *http://pe.usps.com*.

List of Subjects in 39 CFR Part 20

Foreign relations; Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR part 20 as follows:

PART 20—INTERNATIONAL POSTAL SERVICE

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Amend § 20.1 by revising paragraph (a), revising the caption of the table in paragraph (b), and adding a new entry at the end of the table, to read as follows:

§ 20.1 International Mail Manual; incorporation by reference.

(a) Section 552(a) of title 5, U.S.C., relating to the public information requirements of the Administrative Procedure Act, provides in pertinent part that matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the **Federal Register**. In conformity with that provision and 39 U.S.C. 410(b)(1), and as provided in this part, the Postal Service hereby incorporates by reference its *International Mail Manual* (IMM), issued June 24, 2012. The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

(b) The current Issue of the IMM is incorporated by reference in paragraph (a) of this section. Successive Issues of the IMM are listed in the following table:

International mail manual	Date of issuance
* *	emsp;* *
IMM	June 24, 2012.

■ 3. Revise § 20.2 to read as follows:

§ 20.2 Effective date of the International Mail Manual.

The provisions of the *International Mail Manual* issued June 24, 2012, are applicable with respect to the international mail services of the Postal Service.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–25996 Filed 10–22–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 20

International Product and Price Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect the prices, product features, and classification changes to Competitive Services, as established by the Governors of the Postal Service.

DATES: Effective January 27, 2013.

FOR FURTHER INFORMATION CONTACT: Rick Klutts at 813–877–0372.

SUPPLEMENTARY INFORMATION: New prices are available under Docket Number CP2013–3 on the Postal Regulatory Commission's Web site at *http://www.prc.gov*.

This final rule describes the international price and classification changes and the corresponding mailing standards changes for the following Competitive Services:

- Global Express Guaranteed® (GXG®).
- Express Mail International®.
- Priority Mail International®.
- First-Class Package International Service™.
- International Priority Airmail™ (IPA®).
- International Surface Air Lift® (ISAL®).
- Direct Sacks of Printed Matter to One Addressee (M-bags).
- International Extra Services:
  - Certificate of Mailing.
  - Registered Mail™ Service.
  - Return Receipt Service.
  - Pickup On Demand® Service.
- International Money Transfer Services:
  - International Postal Money Orders and Money Order Inquiry Fee.
  - Sure Money® (DineroSeguro®).

New prices are located on the Postal Explorer® Web site at *http://pe.usps.com*.

Global Express Guaranteed

Global Express Guaranteed (GXG) is an international expedited delivery service provided through an alliance with FedEx Express®. The price increase for GXG service averages 9.6 percent. The Commercial Base™ price and Commercial Plus™ price for customers that prepare and pay for GXG shipments via permit imprint, online at USPS.com®, or as registered end-users using an authorized PC Postage® vendor will remain a variable discount (based on the item's weight and price group) of up to 12 percent below the retail price for Commercial Base price and up to 17 percent below the retail price for Commercial Plus price. The price for GXG insurance is unchanged. Finally, customers tendering at least $100,000 in revenue per year for not only GXG, Express Mail International, Priority Mail International, but also First-Class Package International Service may request authorization for commercial plus discounts.

Express Mail International

Express Mail International service provides reliable, high-speed service to approximately 190 countries with a money-back, date-certain delivery guarantee to select destinations. The price increase for Express Mail International service averages 13.2 percent. The Commercial Base price and Commercial Plus price for customers that prepare and pay for Express Mail International shipments via permit imprint, online at USPS.com, or as registered end-users using an authorized PC Postage vendor will remain a variable discount (based on the item's weight and price group) of up to 10 percent below the retail price for Commercial Base price and up to 16 percent below the retail price for Commercial Plus price. Customers tendering at least $100,000 in revenue per year for not only GXG, Express Mail International, Priority Mail International, but also First-Class Package International Service may request authorization for commercial plus discounts.

In addition, the following product features and classification changes are made:

Express Mail International Insurance

To provide additional value, we are increasing the limit for the included merchandise insurance for Express Mail International shipments from $100 to $200. Merchandise insurance insures against loss, damage, or missing contents. The document reconstruction insurance limit remains at $100. Finally, the price for Express Mail International merchandise insurance for items over $200 is unchanged.

Flat Rate Envelopes

For consistency, we are updating the IMM to reflect a 4-pound maximum weight limit for all Express Mail International Flat Rate Envelopes to match the Priority Mail Flat Rate Envelopes. Previously the weight limit was 20 pounds.

Priority Mail International

Priority Mail International (PMI) offers economical prices for reliable delivery of documents and merchandise. The price increase for Priority Mail International service averages 15.1 percent. The Commercial Base price and Commercial Plus price for customers that prepare and pay for Priority Mail International items via permit imprint, online at USPS.com, or as registered end-users using an authorized PC Postage vendor will remain a variable discount (based on the item's weight and price group) of up to 9 percent below the retail price for Commercial Base price and up to 14 percent below the retail price for Commercial Plus price. The price for Priority Mail International insurance is unchanged. Finally, customers tendering at least $100,000 in revenue per year for not only GXG, Express Mail International, Priority Mail International, but also First-Class Package International Service may request authorization for Commercial Plus discounts.

Electronic USPS Delivery Confirmation International

The Postal Service is introducing Electronic USPS® Delivery Confirmation International for the Priority Mail International Flat Rate Envelopes and Small Flat Rate Priced Boxes. Electronic USPS Delivery Confirmation International is optionally provided to select destinations at no charge and is only available electronically by using USPS-approved PC Postage vendors, Click-N-Ship®, Click-N-Ship for Business™, Webtools, and Global Shipping Software (GSS). Tracking information includes the date and time an article was delivered and, if delivery was attempted but not successful, the date and time of the delivery attempt. It is designed to improve customer service and strengthen the business-to-customer commerce channel. The sender can check delivery status by going to USPS.com and clicking on the ''track and confirm'' feature. Although the initial offering will be limited to Canada, we are anticipating adding additional countries in the spring of 2013.

First-Class Package International Service

The Postal Service successfully filed a petition to transfer our existing First-Class Mail International packages (small packets) and rolls from the market dominant product list to the competitive product list. The rebranded competitive product will be identified as First-Class Package International Service™. With this change and similar to our other competitive international mailing offerings, there will be 3 price tiers—the retail price, Commercial Base price, and the Commercial Plus price. To qualify for Commercial Plus pricing, customers must commit to tender $100,000 per year of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items.

The Commercial Base price and Commercial Plus price for customers that prepare and pay for First-Class Package International Service shipments via permit imprint, online at USPS.com, or as registered end-users using an authorized PC Postage vendor will receive a variable discount (based on the item's weight and price group) of up to 10 percent below the retail price for Commercial Base price and up to 15 percent below the retail price for Commercial Plus price. The same mailing requirements that applied to First-Class Mail International packages will apply to First-Class Package International Service. For example, the price groups remain the same, the value of the item may not exceed $400, the item may not exceed 4 pounds, and the item always requires customs declaration, PS Form 2976, *Customs Declaration CN 22—Sender's Declaration*. Finally, updates are made to approximately 65 IMM Individual Country Listings to include ''First-Class Package International Service'' where only ''First-Class Mail International'' is referenced before this change.

Electronic USPS Delivery Confirmation International

The Postal Service is introducing Electronic USPS Delivery Confirmation International for First-Class Package International Service packages (small packets). Electronic USPS Delivery Confirmation International is optionally provided at no charge to select destinations and is only available electronically by using USPS-approved PC Postage vendors, Click-N-Ship®, Click-N-Ship for Business™, Webtools, and Global Shipping Software (GSS). Tracking information includes the date and time an article was delivered and, if delivery was attempted but not successful, the date and time of the delivery attempt. It is designed to improve customer service and strengthen the business-to-customer commerce channel. The sender can check delivery status by going to USPS.com and clicking on the ''track and confirm'' feature. Although the initial offering will be limited to Canada, we are anticipating adding additional countries in the spring of 2013.

International Priority Airmail

International Priority Airmail (IPA) service, including IPA M-bags, is a commercial service designed for business mailers for volume mailings of First-Class Mail International postcards, letters, large envelopes (flats), and First-Class Package International Service packages (small packets) weighing up to 4 pounds. The overall price increase for IPA service averages 1.9 percent.

International Surface Air Lift

International Surface Air Lift (ISAL) service, including ISAL M-Bags, is a commercial service, which provides dispatch and transportation for mailers of volume mailings of all First-Class Mail International postcards, letters, large envelopes (flats), and First-Class Package International Service packages (small packets) weighing up to 4 pounds. The overall price increase for ISAL service averages 4.4 percent.

Direct Sacks of Printed Matter to One Addressee (M-Bags)

Airmail M-bags are direct sacks of printed matter sent to a single foreign addressee at a single address. The price increase for Airmail M-bags averages 7.3 percent.

International Extra Services and International Money Transfer Services

Depending on country destination and mail type, customers may add a variety of extra services to their outbound shipments. While several extra services have had modest increases, due to the elimination of the $0.85 fee for Express Mail International Insurance for the $100.01 to $200 limit, the overall increase for competitive extra services averages zero percent.

For our competitive offerings, we revised the prices for the following international extra services:

Express Mail Merchandise Insurance

To provide additional value, we are increasing the limit for the included merchandise insurance for Express Mail International shipments from $100 to $200. The price for Express Mail International merchandise insurance for items over $200 is unchanged.

Certificate of Mailing

Most of the prices for certificate of mailing service will increase. In addition, the Postal Service is adding the flexibility for mailers who pay for postage with a permit imprint, to now pay the fee using the same permit

imprint account. Previously, the only option to pay the fee was for mailers to apply ordinary stamps, meter stamps, or PC Postage to PS Form 3877, *Firm Mailing Book for Accountable Mail,* or Form 3606, *Certificate of Bulk Mailing.*

Registered Mail

The price for Registered Mail will increase.

Return Receipt

The price for Return Receipt will increase.

Restricted Delivery

Currently, restricted delivery is only available on the Priority Mail International Flat Rate Envelopes and Small Flat Rate Priced Boxes using Registered Mail service. Due to low quantity demand by customers, the Postal Service will discontinue outbound international restricted delivery service effective January 27, 2013.

International Money Transfer Services

The price for International Money Transfer Services (includes International Postal Money Orders and Money Order Inquiry Fee, and Sure Money (DineroSeguro), will increase.

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR Part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

1 International Mail Services

* * * * *

120 Preparation for Mailing

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123 Customs Forms and Online Shipping Labels

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123.5 Place of Mailing

* * * Refer to the specific IMM part below for determination:

* * * * *

[Insert new item e to read as follows:]

e. First-Class Package International Service mailpieces—see 255.

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123.6 Required Usage

123.61 Conditions

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Exhibit 123.61 Customs Declaration Form Usage by Mail Category

[Revise the entry for "First-Class Mail International Packages (Small Packets), Including IPA Items and ISAL Items (Maximum weight limit: 4 pounds)" to read as follows. In addition, revise the footnote to read as follows:]

Type of item	Declared value, weight, or physical characteristic	Required PS form	Comment
*	*	*	*
First-Class Package International Service Packages (Small Packets), Including IPA Items and ISAL Items (Maximum weight limit: 4 pounds)		
All First-Class Package International Service packages (small packets), as defined in *251.2,* regardless of contents.	$400 or less	2976	Merchandise is permitted unless prohibited by the destination country.
	Over $400	Prohibited	Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than Flat Rate Envelopes or Small Flat Rate Priced Boxes).
*	*	*	*

* Qualifying items must meet the physical characteristics in 241.235. For example, the following items do not meet this requirement and must bear a PS Form 2976: 1) Priority Mail International Flat Rate Envelopes that are not uniformly thick; 2) First-Class Package International Service items; and 3) IPA and ISAL packages (small packets) containing only documents.

* * * * *

140 International Mail Categories

141 Definitions

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[Insert a new 141.6 to read as follows:]

141.6 First-Class Package International Service

First-Class Package International Service is a generic term for mailpieces that are package-size (small packets) that weigh 4 pounds or less, and that have a value of $400 or less. First-Class Package International Service items may contain any parcel-size (small packet) that is not prohibited by the destination country. At the sender's option, extra services, such as registry and return receipt, may be added on a country-specific basis.

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150 Postage

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152 Payment Methods

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152.4 Permit Imprint

152.41 Conditions for Use

* * * This postage payment method may be used for postage and extra service fees for the following services:

[Redesignate current items 152.41e and f as new f and g, and insert new item e to read as follows:]

e. First-Class Package International Service

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152.44 Required Format

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Exhibit 152.44 Indicia Formats

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[Between the sections titled ''FIRST–CLASS MAIL INTERNATIONAL'' and ''INTERNATIONAL PRIORITY AIRMAIL (IPA),'' insert a new section titled ''FIRST–CLASS PACKAGE INTERNATIONAL SERVICE.'' This new section will have the same seven entries that appear in the First-Class Mail International section except that the entries in this new section will substitute the words ''FIRST–CLASS PACKAGE INTERNATIONAL SERVICE'']

* * * * *

2 Conditions for Mailing

210 Global Express Guaranteed

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213 Prices and Postage Payment Methods

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213.6 Commercial Prices

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213.62 Commercial Plus Prices

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213.622 Commercial Plus Pricing—Eligibility

[Revise 213.622 to read as follows:]

To qualify for commercial plus pricing, customers must agree to all terms and conditions in a standardized agreement with the Postal Service and tender at least $100,000 per year of international shipping products. For this purpose, ''international shipping products'' includes any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items.

* * * * *

220 Express Mail International

221 Description and Physical Characteristic

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221.3 Express Mail International Flat Rate Envelopes

[Revise the second sentence to read as follows:]

* * * The maximum weight is 4 pounds.* * *

* * * * *

222 Eligibility

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222.7 Express Mail International Insurance and Indemnity

222.71 Merchandise Insurance

[Revise the first sentence to read as follows:]

Express Mail International shipments containing merchandise are insured against loss, damage, or missing contents up to $200 at no additional charge.* * *

* * * * *

222.8 Extra Services—Merchandise Insurance

[Revise the first sentence to read as follows:]

Additional merchandise insurance coverage above $200, up to a maximum of $5,000, may be purchased at the sender's option. * * *

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223 Prices and Postage Payment Methods

223.1 Prices

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223.13 Commercial Plus Prices

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223.131 Commercial Plus Pricing—Eligibility

[Revise 223.131 to read as follows:]

To qualify for commercial plus pricing, customers must agree to all terms and conditions in a standardized agreement with the Postal Service and tender at least $100,000 per year of international shipping products. For this purpose, ''international shipping products'' includes any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items.

* * * * *

230 Priority Mail International

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232 Eligibility

232.1 Priority Mail International Flat Rate Envelopes and Small Flat Rate Priced Boxes

[Revise the first sentence to 232.1 to read as follows:]

All items that may be sent with First-Class Mail International service (see 241) and First-Class Package International Service (see 251) may be sent in Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes provided the contents are mailable, they fit securely in the envelope or box, and they are entirely confined within the container with the provided adhesive as the means of closure.* * *

[Insert new 232.11 to read as follows:]

232.11 Electronic USPS Delivery Confirmation International

232.111 Description

Electronic USPS Delivery Confirmation® International service, abbreviated—E–USPS DELCON INTL—is optionally available for the Priority Mail International Flat Rate Envelopes (except for the Gift Card Flat Rate Envelope) and all Small Flat Rate Priced Boxes to specific destination countries at no charge. Tracking information includes the date and time an article was delivered and, if delivery was attempted but not successful, the date and time of the delivery attempt. The sender can check delivery status by going to *USPS.com* and clicking on the ''Track and Confirm.''

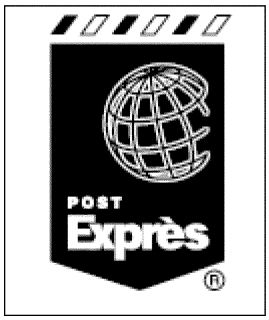
232.112 Availability

Electronic USPS Delivery Confirmation International (currently only available to Canada) is available only electronically by using USPS-approved PC Postage vendors, Click-N-Ship, Click-N-Ship for Business, Webtools, and Global Shipping Software (GSS), or other USPS-approved software.

232.113 Customs Label and Marking

Mailers must use an electronically generated PS Form 2976 that includes the iconic ''Post Exprès'' logo (globe and chevron design)—see Exhibit 232.113.

Exhibit 232.113 Customs Label and Marking



232.114 Additional Standards

The following additional standards apply to Electronic USPS Delivery Confirmation International service:

a. Electronic USPS Delivery Confirmation International service may

not be combined with any other international extra services.

b. Electronic USPS Delivery Confirmation International service is not available for the Priority Mail International Gift Card Flat Rate Envelope.

c. No refunds, inquiries, or claims, are offered, and indemnity is not provided.

d. Customers will not be able to obtain tracking information by contacting the U.S. Postal Service by telephone.

232.115 Postage Payment Methods and Price Eligibility

Mailers may pay for Electronic USPS Delivery Confirmation International items by using postage validation imprinter (PVI) labels, postage meter imprints, USPS-approved PC Postage, Click-N-Ship postage, or permit imprint.

232.116 Price Eligibility

Only items paid with USPS-approved PC Postage (including Click-N-Ship) or permit imprint are eligible for the applicable Commercial Base or Commercial Plus price for the postage portion of the mailpiece. Electronically generated customs forms that are not generated with PC Postage or a permit imprint, (i.e., Click-N-Ship for Business, Webtools) must pay the retail price. Postage may be applied by customer meter, or the item may be taken to a Post Office for acceptance and payment.

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232.9 Extra Services

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[Delete 232.95, ''Restricted Delivery'']

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233 Prices and Postage Payment Methods

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233.1 Prices

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233.13 Commercial Plus Prices

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233.131 Commercial Plus Pricing—Eligibility

[Revise 233.131 to read as follows:]

To qualify for commercial plus pricing, customers must agree to all terms and conditions in a standardized agreement with the Postal Service and tender at least $100,000 per year of international shipping products. For this purpose, ''international shipping products'' includes any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items.

* * * * *

[Insert part 250, currently titled ''(Reserved),'' to read as follows (through 255.2):]

250 First-Class Package International Service

251 Description and Physical Characteristics

251.1 General

The First-Class Package International Service™ classification encompasses the categories of international mail that before May 14, 2007, were categorized as small packets.

251.2 Physical Characteristics

251.21 Physical Standards—Packages (Small Packets)

251.211 Weight Limit

The weight limit for a First-Class Package International Service package (small packet) is 4 pounds.

251.212 Dimensions—Other Than Rolls

Packages (small packets) other than rolls must be within the following dimensions:

a. Maximum length: 24 inches. Length is the longest dimension.

b. Maximum length, height, and depth (thickness) combined: 36 inches.

c. Minimum size: Large enough to accommodate the postage, address, customs form, and other required elements on the address side.

251.213 Dimensions—Rolls

Rolls must be within the following dimensions:

a. Minimum length: 4 inches.

b. Minimum length plus twice the diameter combined: 6¾ inches.

c. Maximum length: 36 inches.

d. Maximum length plus twice the diameter combined: 42 inches.

251.214 Quality

Packages (small packets) must be constructed to be strong enough to withstand normal handling.

252 Eligibility

252.1 Content Eligibility

Subject to applicable weight and size limits, any article that is otherwise acceptable and not prohibited by the Postal Service or the country of destination may be mailed at the First-Class Package International Service price. The maximum value cannot exceed $400. Items exceeding $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes).

252.2 Electronic USPS Delivery Confirmation International

252.21 Description

Electronic USPS Delivery Confirmation® International service, abbreviated—E–USPS DELCON INTL—is optionally available for First-Class Package International items to specific destination countries at no charge. Tracking information includes the date and time an article was delivered and, if delivery was attempted but not successful, the date and time of the delivery attempt. The sender can check delivery status by going to USPS.com and clicking on the ''Track and Confirm.''

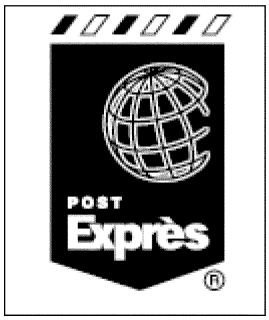
252.22 Availability

Electronic USPS Delivery Confirmation International (currently only available to Canada) is available only electronically by using USPS-approved PC Postage vendors, Click-N-Ship, Click-N-Ship for Business, Webtools, and Global Shipping Software (GSS), or other USPS-approved software.

252.23 Customs Label and Marking

Mailers must use an electronically generated PS Form 2976 that includes the iconic ''Post Exprès'' logo (globe and chevron design)—see Exhibit 252.23.

Exhibit 252.23 Customs Label and Marking



252.24 Additional Standards

The following additional standards apply when using Electronic USPS Delivery Confirmation International:

e. Electronic USPS Delivery Confirmation International service may not be combined with any other international extra services.

f. No refunds, inquiries, or claims, are offered, and indemnity is not provided.

g. Customers will not be able to obtain tracking information by contacting the U.S. Postal Service by telephone.

254.25 Postage Payment Methods

Mailers may pay for Electronic USPS Delivery Confirmation International items by using postage validation imprinter (PVI) labels, postage meter imprint, USPS-approved PC Postage, Click-N-Ship postage, or permit imprint.

254.26 Price Eligibility

Only items paid with USPS-approved PC Postage (including Click-N-Ship) or permit imprint are eligible for the applicable Commercial Base or Commercial Plus price for the postage portion of the mailpiece. Electronically generated customs forms that are not generated with PC Postage or a permit imprint, (i.e., Click-N-Ship for Business, Webtools) must pay the retail price. Postage may be applied by a customer meter, or the item may be taken to a Post Office for acceptance and payment.

252.3 Customs Forms Required

First-Class Package International Service items always require a fully completed PS Form 2976, *Customs Declaration CN 22—Sender's Declaration.*

252.4 Mail Sealed Against Inspection

First-Class Package International Service mailpieces are sealed against inspection.

252.5 Extra Services

252.51 Certificate of Mailing

Certificate of mailing service is available for purchase for First-Class Package International Service items.

252.52 Registered Mail Service

Registered Mail service is available for purchase for First-Class Package International Service items, including such items mailed as free matter for the blind or physically handicapped.

252.53 Return Receipt Service

For First-Class Package International Service items, return receipt service is available for purchase only for items that use Registered Mail service to certain destinations—see the Individual Country Listings for availability and 340 for preparation procedures.

253 Prices and Postage Payment Methods

253.1 Prices

253.11 Prices and Price Application—General

First-Class Package International Service packages (small packets) are charged postage for each addressed piece according to its weight and price group. For prices, see Notice 123, *Price List.*

253.12 Price Computation

First-Class Package International Service prices are charged per ounce or fraction thereof; any fraction of an ounce is rounded up to the next whole ounce. For example, if a piece weighs 1.2 ounces, the weight (postage) increment is 2 ounces. The minimum postage per addressed piece is that for a piece weighing 1 ounce.

253.13 Destinating Countries and Price Groups

See the Individual Country Listings to determine the country-specific price group for First-Class Package International Service. For postage prices, see Notice 123, *Price List.*

253.14 Commercial Base Prices

First-Class Package International Service Commercial Base prices are generally less than First-Class Package International Service retail prices when postage is paid using a permit imprint under 253.222 or the online methods described in 253.231. See Notice 123, *Price List,* for the applicable price.

253.15 Commercial Plus Prices

For approved mailers, First-Class Package International Service Commercial Plus prices are generally less than First-Class Package International Service Commercial Base prices when postage is paid by a registered end-user of a USPS-approved PC Postage product, or a permit imprint under 253.222. See Notice 123, *Price List,* for the applicable price.

253.151 Commercial Plus Pricing—Eligibility

To qualify for Commercial Plus pricing, customers must agree to all terms and conditions in a standardized agreement with the Postal Service and tender at least $100,000 per year of international shipping products. For this purpose, ''international shipping products'' includes any combination of Global Express Guaranteed, Express Mail International, Priority Mail International, or First-Class Package International Service items.

253.152 Commercial Plus Pricing—Approval

Mailers meeting the minimum revenue thresholds under 253.151 must complete an agreement with the Postal Service by contacting their account manager, or USPS Global Business via email at *globalcpp@usps.gov,* for a commitment agreement form or for additional information.

253.2 Postage Payment Methods

253.21 General

First-Class Package International Service items may be paid with postage stamps, postage validation imprinter (PVI) labels, postage meter stamps, information-based indicia (IBI), PC Postage service, or permit imprint.

253.22 Permit Imprint

253.221 Permit Imprint—General

First-Class Package International Service shipments paid with a permit imprint through an advance deposit account are permitted only when requirements for Commercial Base prices or Commercial Plus prices (see 253.222) are followed. Postage paid with a permit imprint is subject to the general conditions in IMM 152.4 and in DMM 604 and 705.

253.222 Permit Imprint—Commercial Base or Commercial Plus Prices

First-Class Package International Service Commercial Base and Commercial Plus prices are generally less than First-Class Package International Service retail prices when postage is paid using a permit imprint. See Notice 123, *Price List,* for the applicable price. The Commercial Base price applies only to the postage portion of First-Class Package International Service prices. In addition, customers must meet the following requirements:

a. Use USPS-produced Global Shipping Software (GSS) or other USPS-approved software listed at *https://ribbs.usps.gov/index.cfm?page=internationalvendors* that electronically transmits Customs-related functions. (To request information about either of these software solutions, send an email to *globalbusiness-sales@usps.gov.*)

b. Pay for postage with a permit imprint through an advance deposit account.

c. Meet manifesting and permit imprint requirements under IMM 152.4 and DMM 604 and the manifesting requirements under DMM 705.

253.23 Online Postage Payment Method

253.231 Online Prices

For selected destination countries, First-Class Package International Service items qualify for discounted prices (equal to the Commercial Base price or Commercial Plus price) when mailers use one of the following online shipping methods:

a. Commercial Base Price: Click-N-Ship service; or registered end-users of an authorized PC Postage vendor.

b. Commercial Plus Price: Registered end-users of an authorized PC Postage vendor.

The Commercial Base or Commercial Plus price is automatically applied to each shipment when using one of the above postage payment methods. The discount applies only to the postage portion of the First-Class Package International Service price. It does not apply to any other charges or fees, such as Registered Mail service or shipments made under a customized agreement.

253.232 Marking Requirements

First-Class Package International Service mailpieces claiming the Commercial Base or Commercial Plus price paid with PC Postage must bear the appropriate price marking, printed on the piece or produced as part of the PC Postage indicia. Mailers must place the applicable marking directly above, directly below, or to the left of the postage using one of the following formats:

a. Commercial Base Price, Commercial Base Pricing, or ComBasPrice.

b. Commercial Plus Price, Commercial Plus Pricing, or ComPlsPrice.

253.233 Determining Online Prices

For each addressed mailpiece, refer to Notice 123, *Price List,* for the applicable Commercial Base or Commercial Plus price.

253.3 Official Mail

253.31 Mailings by Federal Agencies

First-Class Package International Service shipments that are entered by federal agencies and departments are subject to the same standards under 250 as First-Class Package International Service shipments that are entered by nongovernmental entities.

253.32 Postal Service Mailings

First-Class Package International Service shipments that are entered by U.S. Postal Service entities are subject to the same standards under 250 as First-Class Package International Service shipments that are entered by nongovernmental entities, except that U.S. Postal Service mailings must bear the G–10 permit indicia that are prescribed for all Postal Service official mail. See 142.2.

254 Mail Preparation

254.1 Addressing

First-Class Package International Service items are subject to the addressing requirements in 122.

254.2 Marking

The following markings apply to First-Class Package International Service items:

a. First-Class Package International Service packages (small packets) and rolls—which because of their size, shape, or configuration might be mistaken for another category of international mail—should be marked ''LETTER-POST'' on the address side of the mailpiece.

b. First-Class Package International Service items that qualify as free matter for the blind or physically handicapped must bear the marking ''Free Matter for the Blind or Physically Handicapped'' in the upper-right corner of the address side of the mailpiece. See 274.2.

254.3 Sealing

Unregistered First-Class Package International Service items may be sealed at the sender's option. Mailpieces not sealed by conventional means, such as taping the open flaps for small packets, must be closed in such a manner as to prevent the contents from falling out or being damaged during postal handling and transport. First-Class Package International Service items that use Registered Mail service must be sealed. (See 334.4 for sealing requirements for Registered Mail service.)

254.4 Packaging

The following packaging methods may be used for First-Class Package International Service items:

a. Mailers must package mailpieces to withstand normal transit and handling without content or package breakage, injury to Postal Service employees, or damage to other mail or Postal Service equipment.

b. Mailers must package their contents to prevent their deterioration.

c. First-Class Package International Service items are admissible in boxes, cartons, tubes, or other types of containers that are commonly used to transmit shipments that are in package form.

255 Mail Entry and Deposit

255.1 Place of Mailing

255.11 Items Eligible for Deposit or Pickup

First-Class Package International Service items bearing a computer-generated customs form with customs data that has been electronically transmitted (e.g., using Click-N-Ship service, an authorized PC Postage vendor, or the USPS Web Tools system) may be deposited through any of the following methods, provided postage is paid by a means other than the use of postage stamps:

a. In a private mailbox bearing a return address that matches the address at the point of pick up, when the customer or business is known to reside or do business at that location.

b. At a Postal Service retail counter.

c. Into a Postal Service lobby drop.

d. In a collection box.

e. At a Contract Postal Unit (CPU).

f. At a USPS-Approved Shipper location.

255.12 Items Not Eligible for Deposit or Pickup

Customers must present the following First-Class Package International Service items requiring a customs form to an employee at a Post Office retail service counter. Deposit and pickup methods listed in 255.11 are prohibited. The Postal Service will return improperly presented items to the sender for proper entry and acceptance.

a. Any item bearing a customs form and paid with only postage stamps.

b. Any item bearing a handwritten customs form.

c. Any item bearing a customs form that was not computer-generated.

d. Any item for which the customs data was not electronically transmitted.

255.2 Items Paid With a Permit Imprint

Mailers who enter volume mailings paid with a permit imprint under 253.22 must enter such items through a business mail entry unit (BMEU) or, when authorized by the district BMEU manager, through a detached mail unit (DMU) at a mailer's plant.

* * * * *

260 Direct Sacks of Printed Matter to One Addressee (M–bags)

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265 Extra Services

[Revise 265 to read as follows:]

Certificate of mailing is available. Return receipts, Registered Mail service, and insurance are not available with M-bags.

* * * * *

290 Commercial Services

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292 International Priority Airmail (IPA) Service

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292.1 Description

292.11 General

[Revise the first two sentences of 292.11 to read as follows:]

International Priority Airmail™ (IPA®) service is available for volume mailings of all First-Class Mail International postcards, letters and large envelopes (flats), and for volume mailings of First-Class Package International Service packages (small packets). The sender must prepare mailpieces in accordance with the shape-based requirements of First-Class Mail International service (see 240), First-Class Package International Service items (see 250) and the requirements of this subchapter. * * *

* * * * *

292.2 Eligibility

292.21 Qualifying Mailpieces

[Revise 292.21 in its entirety to read as follows:]

To qualify for IPA service, a mailpiece must meet the First-Class Mail International characteristics as defined in 141.5, or the First-Class Package International Service characteristics as defined in 141.6. Mailpieces do not have to be of the same size and weight to qualify. Any item sent with IPA service must conform to the weight and size limits for First-Class Mail International postcards, letters, or large envelopes (flats) as described in 240, or for First-Class Package International Service packages (small packets) as described in 250.

* * * * *

292.3 Prices and Postage Payment Methods

* * * * *

292.33 Postage Payment Methods

* * * * *

292.332 Postage Meter

Payments made by postage meter are subject to the following standards:

* * * * *

[Revise item 292.332e to read as follows:]

e. *Unmarked Pieces.* Unmarked pieces lacking the postage endorsement are subject to the applicable First-Class Mail International or First-Class Package International Service, single-piece price.

* * * * *

292.333 Precanceled Stamps

Payments made by precanceled stamps are subject to the following standards:

* * * * *

[Revise item e to read as follows:]

e. *Unmarked Pieces.* Unmarked pieces lacking the postage endorsement are subject to the applicable First-Class Mail International or First-Class Package International Service, single-piece price.

* * * * *

292.4 Mail Preparation

* * * * *

292.43 Sealing and Packaging

[Revise 292.43 in its entirety to read as follows:]

Mailers must meet the following sealing and packaging standards for IPA mail:

a. *Mixed Country and Worldwide Nonpresort Price.* All mailpieces entered at the mixed country and worldwide nonpresort price must meet the sealing and packaging methods for First-Class Mail International service under IMM 244.3 and 244.4 and for First-Class Package International Service under IMM 254.3 and 254.4.

b. *Direct Country Price.* Letter-size mailpieces entered at the direct country price must meet one of the following requirements:

1. The sealing and packaging methods for First-Class Mail International service under IMM 244.3 and 244.4.

2. The physical standards of a machinable letter under DMM 201.3.

Flat-size mailpieces entered at the direct country price must meet the sealing and packaging methods for First–Class Mail International service under IMM 244.3 and 244.4. Small packets entered at the direct country price must meet the sealing and packaging methods for First-Class Package International Service under IMM 254.3 and 254.4.

* * * * *

293 International Surface Air Lift (ISAL) Service

* * * * *

293.1 Description

293.11 General

[Revise the first two sentences of 293.11 to read as follows:]

International Surface Air Lift® (ISAL®) service is a bulk mailing system that provides fast, economical international delivery of First-Class Mail International and First-Class Package International Service items. The price is lower than for First-Class Mail International service and First-Class Package International Service. * * *

* * * * *

293.2 Eligibility

293.21 Qualifying Mailpieces

[Revise 292.21 in its entirety to read as follows:]

To qualify for ISAL service, a mailpiece must meet the First-Class Mail International characteristics as defined in 141.5, or the First-Class Package International Service characteristics as defined in 141.6. Mailpieces do not have to be of the same size and weight to qualify. Any item sent with ISAL service must conform to the weight and size limits for First-Class Mail International postcards, letters, or large envelopes (flats) as described in 240, or for First-Class Package International Service packages (small packets) as described in 250.

* * * * *

293.3 Prices and Postage Payment Methods

* * * * *

293.33 Postage Payment Methods

* * * * *

293.332 Postage Meter

Payments made by postage meter are subject to the following standards:

* * * * *

[Revise item 293.332e to read as follows:]

e. *Unmarked Pieces.* Unmarked pieces lacking the postage endorsement are subject to the applicable First-Class Mail International or First-Class Package International Service, single-piece price.

* * * * *

293.333 Precanceled Stamps

Payments made by precanceled stamps are subject to the following standards:

* * * * *

[Revise item 293.333e to read as follows:]

e. Unmarked Pieces. Unmarked pieces lacking the postage endorsement are subject to the applicable First-Class Mail International or First-Class Package International Service, single-piece price.

* * * * *

293.4 Marking

* * * * *

293.43 Sealing and Packaging

[Revise 293.43 in its entirety to read as follows:]

Mailers must meet the following sealing and packaging standards for ISAL mail:

a. *Mixed Country and Worldwide Nonpresort Price.* All mailpieces entered at the mixed country and worldwide nonpresort price must meet the sealing and packaging methods for First-Class Mail International service under IMM 244.3 and 244.4 and for First-Class Package International Service under IMM 254.3 and 254.4.

b. *Direct Country Price.* Letter-size mailpieces entered at the direct country

price must meet one of the following requirements:

1. The sealing and packaging methods for First-Class Mail International service under IMM 244.3 and 244.4.

2. The physical standards of a machinable letter under DMM 201.3.

Flat-size mailpieces entered at the direct country price must meet the sealing and packaging methods for First–Class Mail International service under IMM 244.3 and 244.4. Small packets entered at the direct country price must meet the sealing and packaging methods for First-Class Package International Service under IMM 254.3 and 254.4.

* * * * *

3 Extra Services

* * * * *

320 Insurance

* * * * *

322 Express Mail International Insurance

322.1 Description

[Revise 322.1 to read as follows:]

Express Mail International shipments containing merchandise are insured against loss, damage, or missing contents up to $200 at no additional charge. Express Mail International shipments containing only nonnegotiable documents are insured against loss, damage, or missing contents up to $100 at no additional charge.

* * * * *

322.3 Additional Coverage and Fees

[Revise the first sentence to read as follows:]

Additional merchandise insurance coverage above $200—up to the maximum amount allowed by the country (see the Individual Country Listings) but never to exceed $5,000—may be purchased at the sender's option. * * *

* * * * *

370 International Money Transfer Services

371 International Money Orders

371.11 General

[Revise the last sentence of 371.11 to read as follows:]

* * * International postal money orders may be sent by Express Mail International service, Priority Mail International service, First-Class Mail International, or First-Class Package International Service.

* * * * *

372 Sure Money (DineroSeguro)

* * * * *

372.3 Fees

[Revise 372.3 to read as follows:]

Fees for Sure Money service are as follows:

Transaction type	Minimum amount	Maximum amount	Fee
Sales	$0.01	$750.00	$11.00
	750.01	1,500.00	16.50
	1,500.01	2,000.00	22.00
Refunds	0.01	2,000.00	26.00
Change of Payee	0.01	2,000.00	12.00

* * * * *

Individual Country Listings

* * * * *

[For each country that includes a specific Prohibition, Restriction, or Observation regarding ''First-Class Mail International'', revise the reference to ''First-Class Mail International or First-Class Package International Service''.]

* * * * *

Express Mail International (220)

* * * * *

Express Mail International—Flat Rate Envelopes and Flat Rate Boxes (220)

* * * * *

[For each country that offers Express Mail International Flat Rate Envelopes and Flat Rate Boxes, revise the text to read as follows:]

Flat Rate Envelopes: The maximum weight is 4 pounds.

Flat Rate Boxes: The maximum weight is 20 pounds.

Refer to Notice 123, *Price List,* for the applicable retail, commercial base, or commercial plus price.

Insurance (228.8)

* * * * *

[For each country that offers Express Mail International merchandise insurance, replace the fee table to read as follows (noting that there is no fee for an insured amount not over $200) up to the applicable maximum amount available for each country:]

Insured amount not over	Fee	Insured amount not over	Fee
$200	No Fee	For insurance coverage above $2,000, add $1.50 for each $500 or fraction thereof, up to a maximum of $5,000 per shipment.	
500	2.35.		
1,000	3.85.		
1,500	5.35.		
2,000	6.85	$5,000 max	$15.85

* * * * *

[After the ''First-Class Mail International (240)'' section, insert a new section for First-Class Package International Service for each country except for North Korea and Somalia to read as follows. For each country, use the same price group indicated by the ''[x]'' below that is currently used for First-Class Mail International service. For North Korea and Somalia insert only the title, and the words ''Not Available.'']

First-Class Package International Service (250) Price Group x

For the prices and maximum weights for packages (small packets), see Notice 123, *Price List.*

Size Limits

Packages (Small Packets): See 251.212 and 251.213

* * * * *

Extra Services

* * * * *

International Postal Money Order (371)

[For each country that offers international postal money orders, revise the fee (which is on the ''Maximum Amount Available'' line) to read as follows:]

Fee: $4.50

[Revise the money order inquiry fee to read as follows:]

Fee: $5.75

* * * * *

We will publish an appropriate amendment to 39 CFR Part 20 to reflect these changes.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–25994 Filed 10–22–12; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0299, FRL–9742–3]

Approval and Promulgation of Implementation Plans; North Dakota: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule; $PM_{2.5}$ NSR Implementation Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the North Dakota State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) and fine particulate matter ($PM_{2.5}$) under North Dakota's Prevention of Significant Deterioration (PSD) program. This revision was submitted by the North Dakota Department of Health Division of Air Quality (ND DOH DAQ) to EPA on April 18, 2011. It is intended to align North Dakota's regulations with the ''PSD and Title V Greenhouse Gas Tailoring Final Rule'' and the final rule for ''Implementation of the New Source Review (NSR) Program for $PM_{2.5}$.'' EPA is approving the revision because the Agency has determined that the SIP revision, already adopted by North Dakota as a final effective rule, is in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs and $PM_{2.5}$.

DATES: This action is effective on November 23, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R08–OAR–2012–0299. All documents in the docket are listed at *http://www.regulations.gov.* Although listed in the index, some information may not be 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 *http://www.regulations.gov* or in hard copy at EPA Region 8, Air Quality Planning Unit (8P–AR), 1595 Wynkoop Street, Denver, Colorado 80202. 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: Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION: Information is organized as follows:

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III. What is EPA's analysis of North Dakota's SIP revision?
IV. Response to Comments
V. Final Action
VI. Statutory and Executive Order Reviews

I. What action is EPA finalizing in today's notice?

On April 18, 2011, ND DOH submitted a request to EPA to approve revisions to the state's SIP and Title V program to incorporate recent rule amendments adopted by the ND DOH DAQ. These adopted rules became effective in the North Dakota Administrative Code on that date. Among other things, the amendments establish thresholds for GHG emissions in North Dakota's PSD and Title V regulations at the same emissions thresholds and in the same time-frames as those specified by EPA in the ''PSD and Title V Greenhouse Gas Tailoring Final Rule'' (75 FR 31514, June 3, 2010), hereinafter referred to as the ''Tailoring Rule,'' ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements for GHGs that they emit. The requested revisions to the SIP will clarify the applicable thresholds in the North Dakota SIP and incorporate state rule changes adopted at the state level into the federally-approved SIP.

The revisions to the SIP also address requirements for PSD programs with regard to emissions of $PM_{2.5}$. These requirements were specified by EPA in the rule, ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers $PM_{2.5}$ ($PM_{2.5}$)'' (73 FR 28321, May 16, 2008), hereinafter referred to as the ''$PM_{2.5}$ NSR Implementation Rule.'' On July 13, 2012, EPA proposed approval of North Dakota's April 18, 2011 SIP submittal for incorporation into the SIP (77 FR 41343). We did not propose approval of ND's Title V operating permit program revision, which is handled separately because the Title V program is not part of the SIP. In today's notice, pursuant to section 110 of the CAA, EPA is approving the SIP revisions into the North Dakota SIP.

North Dakota also submitted revisions to the General Provisions (Section 33–15–01–04), Ambient Air Quality Standards (Sections 33–15–02–04.1 and 33–15–02–07, and Tables 1 and 2), and Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (Sections 33–15–14–01.9, 10, 12 and 15, 33–15–14–02.1, 33–15–14–02.13 and 33–15–14–03.1.c). In today's final rulemaking, EPA is not taking action on those submittals; EPA will act on them in a separate rulemaking.

II. What is the background for the PSD SIP final approval by EPA in today's notice?

This section briefly summarizes EPA's recent GHG and $PM_{2.5}$-related actions that provide the background for today's final action. More detailed discussion of the background is found in the preambles for those actions. In particular, for GHGs the background is contained in the PSD SIP Narrowing

Rule,[1] and in the preambles to the actions cited therein.

A. GHG-Related Actions

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's final action on the North Dakota SIP. Four of these actions include, as they are commonly called, the ''Endangerment Finding'' and ''Cause or Contribute Finding,'' which EPA issued in a single final action,[2] the ''Johnson Memo Reconsideration,''[3] the ''Light-Duty Vehicle Rule,''[4] and the ''Tailoring Rule.'' Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

PSD is implemented through the SIP system. In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP Call and, for some of these states, a Federal Implementation Plan (FIP).[5] Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year (tpy) of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the PSD SIP Narrowing Rule. Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the ''error correction'' provisions of CAA section 110(k)(6).

B. $PM_{2.5}$-Related Actions

On May 16, 2008, EPA issued final rules governing the implementation of the New Source Review (NSR) program for particulate matter less than 2.5 micrometers in diameter ($PM_{2.5}$), also known as fine particles. The $PM_{2.5}$ NSR Implementation Rule finalized several NSR program requirements for sources that emit $PM_{2.5}$ and other pollutants that contribute to $PM_{2.5}$, including; pollutants that contribute to $PM_{2.5}$ that are subject to NSR regulations, major source thresholds, significant emissions rates, interpollutant offset trading, revised SIP submittal deadlines and timing of implementation of the rule. The rule requires PSD permits to address directly emitted $PM_{2.5}$ as well as pollutants responsible for secondary formation of $PM_{2.5}$ as follows:

- Sulfur dioxide (SO_2)—regulated as a $PM_{2.5}$ precursor
- Nitrogen oxides (NOx)—regulated as a $PM_{2.5}$ precursor unless a state demonstrates that NOx emissions are not a significant contributor to the formation of $PM_{2.5}$ for an area in the state.
- Volatile organic compounds (VOC)—not regulated as a $PM_{2.5}$ precursor unless a state demonstrates that VOC emissions are a significant contributor to the formation of $PM_{2.5}$ for an area in the state.

C. North Dakota's Actions

On June 21, 2010, North Dakota provided a letter to EPA, in accordance with a request to all states from EPA in the Tailoring Rule, with confirmation that the State of North Dakota has the authority to regulate GHGs in its existing SIP-approved PSD program at the Tailoring Rule thresholds. The letter also confirmed North Dakota's intent to amend its air quality rules for the PSD program for GHGs to explicitly match the thresholds set in the Tailoring Rule. See the docket for this final rulemaking for a copy of North Dakota's letter.

The rulemaking docket includes a Dec. 14, 2010 memo from EPA Region 8 that documents communications between EPA and the State of North Dakota, with regard to the question of whether the state believed that it needed the PSD SIP Narrowing Rule. The state's 60-day response letter to EPA, dated June 21, 2010, stated, in part, ''The Department believes it has existing authority to issue both PSD and Title V permits for sources of greenhouse gases based on the applicability thresholds specified in the tailoring rule.'' Therefore, the state believed the narrowing rule was unnecessary for North Dakota. As a result, North Dakota was not subject to the PSD SIP Narrowing Rule.

III. What is EPA's analysis of North Dakota's SIP revision?

On April 18, 2011, ND DOH DAQ submitted a revision of its regulations to EPA for processing and approval into the SIP. This SIP revision explicitly adopts the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule. EPA's approval of North Dakota's SIP revision will incorporate the revisions of the North Dakota regulations into the Federally-approved SIP. Doing so will clarify the applicable thresholds in the North Dakota SIP.

The SIP revision establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under North Dakota's PSD program. Specifically, North Dakota's SIP revision includes changes—which are already state effective—to North Dakota's Administrative Code, revising chapter 33–15–15 ''Prevention of Significant Deterioration of Air Quality,'' subsection 33–15–15–01.2 ''Scope.''

In subsection 33–15–15–01.2, North Dakota implements the PSD program by, for the most part, incorporating by reference the federal PSD program at 40 CFR 52.21. Under the current SIP, the federal PSD program is incorporated as it existed on August 1, 2007. Under the SIP revision, the federal PSD program as it existed on July 2, 2010 is incorporated by reference. This includes revisions to the federal PSD program that were

[1] ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule.'' 75 FR 82536 (December 30, 2010).

[2] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.'' 74 FR 66496 (December 15, 2009).

[3] ''Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.'' 75 FR 17004 (Apr. 2, 2010).

[4] ''Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.'' 75 FR 25324 (May 7, 2010).

[5] Specifically, by action dated December 13, 2010, EPA finalized a ''SIP Call'' that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority. ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,'' 75 FR 77698 (December 13, 2010). EPA made findings of failure to submit in some states which were unable to submit the required SIP revision by their deadlines, and finalized FIPs for such states. *See, e.g.* ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases,'' 75 FR 81874 (December 29, 2010); ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,'' 75 FR 82246 (December 30, 2010). Because North Dakota's SIP already authorized North Dakota to regulate GHGs at the Tailoring Rule thresholds once GHGs became subject to PSD requirements on January 2, 2011, North Dakota is not subject to the SIP Call or FIP.

published as a final rule in the **Federal Register** by this date but had not yet been published in the Code of Federal Regulations (CFR). The Tailoring Rule, including the necessary revisions to the federal PSD program, was published as a final rule in the **Federal Register** on June 3, 2010, and on July 1, 2010, the Tailoring Rule revisions to 40 CFR 52.21 were noted in the published version of the CFR. The SIP revision therefore incorporates the PSD requirements of the Tailoring Rule.

Similarly, the revision incorporates, for the most part, the PSD requirements of the $PM_{2.5}$ NSR Implementation Rule (promulgated May 16, 2011) as reflected in 40 CFR 52.21, with one exception. North Dakota has modified the language in the definition of ''regulated NSR pollutant'' at 40 CFR 52.21(b)(5) regarding $PM_{2.5}$ precursor presumptions. The modification explicitly establishes that nitrogen oxides are a precursor to $PM_{2.5}$ and that volatile organic compounds are not a precursor to $PM_{2.5}$. In other words, the State has not attempted to demonstrate that nitrogen oxides are not a significant contributor to ambient $PM_{2.5}$ concentrations or that volatile organic compounds are a significant contributor to ambient $PM_{2.5}$ concentrations. This approach is consistent with the $PM_{2.5}$ NSR Implementation Rule. Finally, as a result of the updated incorporation by reference, North Dakota has also adopted the clarified definition of ''reasonable possibility'' promulgated by EPA on December 21, 2007 (72 FR 72607).

North Dakota removed language that had previously been added to 40 CFR 52.21(o)(1) for two reasons: To make this requirement entirely consistent with federal rules and to provide flexibility to use current methodologies recommended by Federal Land Managers. Chapter 33–15–19 is still applicable to major sources or major modifications under PSD; however, the revised PSD rules in Chapter 33–15–15 do not bind North Dakota to Chapter 33–15–19 for the visibility analysis.

North Dakota is currently a SIP-approved state for the PSD program, and has previously incorporated EPA's 2002 NSR reform revisions for PSD into its SIP. See 72 FR 39564 (July 19, 2007). The changes to North Dakota's PSD program regulations are substantively the same as the federal provisions amended in EPA's Tailoring Rule and $PM_{2.5}$ NSR Implementation Rule. As part of its review of North Dakota's submittal, EPA performed a line-by-line review of North Dakota's revision and has determined that it is consistent with the Tailoring Rule and $PM_{2.5}$ NSR Implementation Rule.

IV. Response to Comments

EPA did not receive comments on our July 13, 2012 **Federal Register** notice proposing approval of North Dakota's SIP revision relating to regulation of GHGs and fine particulate matter under the North Dakota PSD program.

V. Final Action

Pursuant to section 110 of the CAA, EPA is approving North Dakota's April 18, 2011 revisions to the North Dakota SIP, relating to PSD requirements for GHG- and $PM_{2.5}$-emitting sources. Specifically, North Dakota's SIP revision establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA's Tailoring Rule. The final SIP revision also satisfies PSD requirements for treatment of $PM_{2.5}$ in accordance with EPA's $PM_{2.5}$ NSR Implementation Rule. As a result, EPA has determined that this SIP revision is approvable.

VI. 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 final action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this final action does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: October 3, 2012.

James B. Martin,

Regional Administrator, Region 8.

Therefore, 40 CFR chapter I is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart JJ—North Dakota

■ 2. Section 52.1820 in paragraph (c) is amended by revising the table entry for ''33–15–15–01.2'' to read as follows

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

STATE OF NORTH DAKOTA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
*	*	*	*	*
33–15–15–01.2	Prevention of Significant Deterioration of Air Quality, Scope.	10/27/10	[9/27/12, Insert **Federal Register** page number where the document begins.]	.....
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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

* * * * *

[FR Doc. 2012–25667 Filed 10–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0047; FRL–9739–8]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Nevada; Infrastructure Requirements for Ozone and Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part and disapproving in part State Implementation Plan (SIP) revisions submitted by the state of Nevada pursuant to the requirements of the Clean Air Act (CAA) for the 1997 8-hour ozone national ambient air quality standards (NAAQS) and the 1997 and 2006 NAAQS for fine particulate matter ($PM_{2.5}$). The CAA requires that each State adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, and requires EPA to act on such SIPs. Nevada has met most of the applicable requirements. Where EPA is disapproving, in part, Nevada's SIP revisions, the majority of the deficiencies have been already been addressed by a federal implementation plan (FIP). For one remaining deficiency, this final rule sets a two-year deadline for EPA to promulgate a FIP, unless EPA approves an adequate SIP revision prior to that time. EPA remains committed to working with Nevada's environmental agencies to develop such a SIP revision.

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

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2011–0047. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, *mays.rory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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D. Consequences of Disapprovals
IV. Statutory and Executive Order Reviews

I. Background

Section 110(a)(1) of the CAA requires each state to submit to EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the ''implementation, maintenance, and enforcement'' of such NAAQS. EPA refers to these specific submissions as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS.

On July 18, 1997, EPA issued a revised NAAQS for ozone [1] and a new NAAQS for fine particulate matter ($PM_{2.5}$).[2] EPA subsequently revised the 24-hour $PM_{2.5}$ NAAQS on September 21, 2006.[3] Each of these actions triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years of issuance of the new or revised NAAQS.

On August 3, 2012 (77 FR 46361), EPA proposed to approve in part and disapprove in part several SIP revisions and one proposed SIP revision submitted by Nevada Division of Environmental Protection (NDEP) to address the infrastructure requirements of CAA section 110(a)(1) and (2) for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. NDEP's submittals include SIP revisions submitted to EPA on February 1, 2008 (''2008 Ozone Submittal''), February 26, 2008 (''2008 $PM_{2.5}$ Submittal''), September 15, 2009 (''2009 $PM_{2.5}$ Submittal''), and December 4, 2009 (''2009 $PM_{2.5}$ Supplement''), and a proposed SIP revision submitted on July 5, 2012. The proposed SIP revision served as a supplement to the prior four infrastructure SIP revisions and was submitted under the parallel processing mechanism provided by 40 CFR Part 51, Appendix V, Section 2.3. The final version of the July 5, 2012 proposed SIP revision was adopted on August 30, 2012 and submitted to EPA on the same day (''2012 Submittal'').

We are taking final action on all five submittals since they collectively

[1] The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (62 FR 38856).

[2] The annual $PM_{2.5}$ standard was set at 15 micrograms per cubic meter ($\mu g/m^3$), based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentrations from single or multiple community-oriented monitors and the 24-hour $PM_{2.5}$ standard was set at 65 $\mu g/m^3$, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area (62 FR 38652).

[3] The final rule revising the 24-hour NAAQS for $PM_{2.5}$ from 65 $\mu g/m^3$ to 35 $\mu g/m^3$ was published in the **Federal Register** on October 17, 2006 (71 FR 61144).

address the applicable infrastructure SIP requirements for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. We refer to them collectively herein as ''Nevada's Infrastructure SIP Submittals.''

The rationale supporting EPA's action, including the scope of infrastructure SIPs in general, is explained in our August 3, 2012 Notice of Proposed Rulemaking (proposed rule) and the three associated technical support documents (TSDs) [4] and will not be restated here. The proposed rule and TSDs are available online at *http://www.regulations.gov,* Docket ID number EPA–R09–OAR–2011–0047.

II. EPA's Response to Comments

The public comment period on EPA's proposed rule opened on August 3, 2012, the date of its publication in the **Federal Register**, and closed on September 4, 2012. During this period, EPA received two comment letters: one from NDEP on September 4, 2012 (herein ''NDEP's comment(s)''); and one from Washoe County Health District Air Quality Management Division (WCHD–AQMD) on September 4, 2012 (herein ''Washoe County's comment(s)''). Both letters are available in the docket to today's final rule.[5]

NDEP's comment letter numbers its comments 1 through 9. NDEP comment numbers 1 through 3 support various aspects of EPA's proposed rule, while numbers 4 through 9 request clarification on several points. Washoe County's comment letter generally supports EPA's proposed rule with two exceptions, which it numbers 1 and 2, and requests that EPA make a clarification on one additional point. We appreciate NDEP and Washoe County's comments in support for our proposed rule and respond to their comments regarding requested clarifications and corrections below. Note that we have grouped comments from NDEP and Washoe County that are similar in content into single comments and responses.

Comment #1:

NDEP's comment number 4 and Washoe County comment number 1 note that EPA proposes to disapprove the portion of the SIP related to prevention of significant deterioration (PSD) permit programs for NDEP and Washoe County because the programs do not completely satisfy the statutory and regulatory requirements for PSD permit programs. NDEP and WCHD–AQMD also note, however, that EPA recognizes that the deficiencies related to the PSD programs are adequately addressed by the existing federal implementation plan (FIP), for which EPA has delegated enforcement authority to NDEP and Washoe County. Moreover, NDEP argues that the provisions of 40 CFR 52.1485(b), which codify the PSD FIP by incorporating EPA's PSD provisions in the Nevada SIP, make EPA's PSD FIP a part of the SIP, with the exception of the portion applicable to Clark County. As such, NDEP and WCHD–AQMD believe that the elements of the Nevada SIP related to PSD programs under their jurisdictions should be approved.

Response #1:

The CAA requires each State to adopt and submit a plan which provides for implementation, maintenance, and enforcement of the NAAQS. *See* CAA section 110(a)(1). CAA section 110(a)(2) sets forth the content requirements for such plans, including the requirement for a permit program as required in part C (''Prevention of Significant Deterioration of Air Quality,'' or ''PSD'') of title I of the CAA. Such plans are referred to as state implementation plans or SIPs.

EPA's authority to promulgate a FIP derives from EPA's determination that a State has failed to submit a complete, required SIP submission or from EPA's disapproval of a State submission of a SIP or SIP revision. *See* CAA section 110(c)(1). The SIP, viewed broadly, thus includes both portions of the plan submitted by the State and approved by EPA as well as any FIP promulgated by EPA to substitute for a State plan disapproved by EPA or not submitted by a State. *See* 40 CFR 52.02(b).

In 1974, EPA disapproved each state's SIP with respect to PSD and promulgated a FIP as a substitute for the SIP deficiency (''PSD FIP''). *See* 39 FR 42510 (December 5, 1974). In 1975, EPA codified the PSD FIP in each state's subpart in 40 CFR part 52. *See* 40 FR 25004 (June 12, 1975)(adding 40 CFR 52.1485 to Subpart DD—Nevada). In 1978 and 1980, EPA amended the PSD regulations following the Clean Air Act Amendments of 1977 and related court decisions and amended the codification of the PSD FIP in each state's subpart, including 40 CFR 52.1485, accordingly. *See* 43 FR 26380 (June 19, 1978) and 45 FR 52676 (August 7, 1980). Since then, EPA has approved the PSD SIP for the sources and geographic area that lie within the jurisdiction of Clark County Department of Air Quality, and has delegated responsibility for conducting PSD review, as per the PSD FIP, to NDEP and the Washoe County District Health Department. Notwithstanding the delegation, however, the Nevada SIP remains deficient with respect to PSD for the geographic areas and stationary sources that lie within NDEP's and Washoe County District Health Department's jurisdictions. As such, EPA's disapproval of the infrastructure SIP submittals for those elements that require states to have a SIP that includes a PSD permit program, including CAA sections 110(a)(2)(C), (D)(i)(II), (D)(ii), (J), and (K), is appropriate because EPA disapproved the State's submitted plan as not adequately addressing PSD program requirements. To conclude otherwise would be inconsistent with the long-standing and current disapproval of the SIP for PSD for the applicable areas, with the statutory foundation upon which the PSD FIP is authorized, and with the obligation under section 110(a) for each State to adopt and submit a plan for implementation, maintenance, and enforcement of the NAAQS that includes a PSD program. EPA's delegation of the PSD FIP is not the same as State adoption and submittal of state or district rules meeting PSD requirements and EPA's approval thereof.

Comment #2:

NDEP's comment number 6 and Washoe County comment number 2 state that NDEP and Washoe County Health District AQMD ''[do] not believe that the PSD program as it relates to greenhouse gases renders this SIP deficient with respect to ozone and $PM_{2.5}$'' and request that EPA explain why greenhouse gas (GHG) provisions are ''essential to enforcing the $PM_{2.5}$ NAAQS.'' Both comments refer to pages 10, 42, and 43 of EPA's Overarching TSD for EPA's proposed rule.

Response #2:

The PSD requirements for the regulation of greenhouse gases are relevant to our evaluation of SIPs submitted with respect to the ozone and $PM_{2.5}$ (or any) NAAQS because those PSD requirements apply on a source-by-source basis for all federally regulated pollutants emitted by that source that meet the PSD applicability thresholds,

[4] The three TSDs are as follows: (1) ''Technical Support Document: EPA Evaluation of Nevada Provisions for 1997 Ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ National Ambient Air Quality Standards for Sections 110(a)(2)(A) thru (C) Sections 110(a)(2)(D)(i)(II) and (D)(ii), Sections 110(a)(2)(E)(i) and (E)(iii), Sections 110(a)(2)(F) thru (M),'' July 2012 (''Overarching TSD''); (2) ''Technical Support Document for EPA's Proposed Action on the 2009 Infrastructure State Implementation Plan (Transport Portion) for the State of Nevada,'' July 2012 (''2006 $PM_{2.5}$ Transport TSD'', or ''Transport TSD''); and (3) ''Technical Support Document: EPA Evaluation of Nevada Provisions for Section 110(a)(2)(E)(ii)/Section 128 Conflict of Interest Requirements,'' July 2012 (''Section 128 TSD'').

[5] *See* document numbers EPA–R09–OAR–2011–0047–0135 (NDEP's comment letter) and EPA–R09–OAR–2011–0047–0136 (Washoe County's comment letter) at *www.regulations.gov* under docket ID number EPA–R09–OAR–2011–0047.

rather than applying on a pollutant-by-pollutant basis. For example, the CAA specifies that a new source that triggers PSD because of its emissions of ozone precursors or $PM_{2.5}$ is also subject to PSD for any other federally regulated pollutant that it emits above the applicable significance levels and for GHGs, if it emits those pollutants above the thresholds established by the GHG Tailoring Rule.[6] Accordingly, for the Nevada Infrastructure SIPs for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS to be fully approvable, the Nevada SIP must include the appropriate PSD requirements for all other federally regulated pollutants, including GHGs. Because Nevada's Infrastructure SIPs fail to include those requirements for GHGs with respect to the NDEP and Washoe County portions of the SIP, the EPA must partially disapprove these SIP submittals. Consistent with our proposal, however, we reiterate that ''[a]lthough the Nevada SIP remains deficient with respect to PSD requirements in both the NDEP and Washoe County portions of the SIP, these deficiencies are adequately addressed in both areas by the Federal PSD program.'' *See* 77 FR 46361 at 46367.

Comment #3:

NDEP's comment number 5 states that ''EPA proposes to partially disapprove the NDEP's submittal [with respect to the 'good neighbor' requirements of CAA section 110(a)(2)(D)(i)(I)], stating that it is not relevant, and to partially approve the submittal based on EPA's independent evaluation of Nevada's impact on receptor states.'' NDEP stated its belief that ''it would be simpler not to do a partial disapproval based on information that EPA deemed immaterial to its decision-making, but rather to fully approve the SIP based on EPA's own data analysis demonstrating a lack of impacts on receptor states.''

Response #3:

We disagree. EPA proposed to partially disapprove Nevada's 2009 $PM_{2.5}$ Submittal and 2009 $PM_{2.5}$ Supplement with respect to the ''good neighbor'' requirements of CAA section 110(a)(2)(D)(i)(I), because the State's submission ''relies on irrelevant factors and lacks any technical analysis to support the State's conclusion with respect to interstate transport.'' *See* 77 FR 46361 at 46368. We also proposed to partially approve the submission, however, based on EPA's supplemental evaluation of relevant technical information, which supports a finding that emissions from Nevada do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state and that the existing Nevada SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. *Id.* Our proposal to partially approve and partially disapprove the submission was based not on information that ''EPA deemed immaterial to its decision-making,'' but rather on information submitted by the State in the form of a SIP submission which we found inadequate to satisfy the applicable CAA requirements.

Specifically, as discussed in the Transport TSD for this proposal, Nevada's 2009 $PM_{2.5}$ Submittal and 2009 $PM_{2.5}$ Supplement (collectively the ''2009 SIP Submittals'') appear to conclude that the existing Nevada SIP satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS, among other requirements of CAA section 110(a). *See* Transport TSD at 1. The only support provided for this conclusion in the 2009 SIP Submittals is a reference to EPA's previous approval of Nevada's CAA section 110(a)(2)(D)(i) interstate transport SIP for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS at 72 FR 41629 (July 31, 2007). *See* Transport TSD at 1, 2. The 2009 SIP Submittals contains no technical analysis of potential interstate transport or any other support for the State's conclusion that the existing Nevada SIP satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. *See id.* Moreover, Nevada submitted nothing to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS in Clark County. *See id.* at footnote 1.

As explained in the Transport TSD, EPA does not agree with NDEP's suggestion or conclusion in the 2009 SIP Submittals that EPA's previous approval of Nevada's section 110(a)(2)(D)(i) interstate transport SIP for the 1997 8-hour ozone NAAQS and the 1997 p.m.$_{2.5}$ NAAQS could support, in any way, the conclusion that the SIP adequately addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. *See id.* at 2. The cited 2007 rulemaking addressed CAA requirements for different NAAQS and thus could not support a conclusion that the requirements have been met with respect to the 2006 24-hour $PM_{2.5}$ NAAQS. *See id.*

Given the absence of any technical demonstration in the State's submission showing that Nevada emission sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state, we cannot fully approve the 2009 SIP Submittals as satisfying the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. We are, however, partially approving the 2009 SIP Submittals based on EPA's independent review of relevant technical information, which supports the State's conclusion that Nevada emission sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state and that section 110(a)(2)(D)(i)(I) of the CAA therefore does not require additional controls in Nevada to prohibit such impacts.

Comment and Response #4:

NDEP comment number 8 recommends several corrections and clarifications to the text of our Transport TSD. We respond to each sub-comment following separate comment summaries below.

First, citing pages 7 and 11 of our Transport TSD, NDEP states that ''EPA has characterized Idaho as more distant from Nevada than Utah, Oregon and California'' but notes that Nevada and Idaho share a border.

We agree that our Transport TSD could have better characterized the location of Idaho relative to Nevada and the distance from Nevada to nonattainment receptors in Idaho relative to those in ''other western states'' (i.e., Washington and Montana, *see* pages 7 and 11 of our Transport TSD). EPA discussed the nonattainment receptor in Idaho as part of its discussion of ''other western states with nonattainment receptors located farther away'' because the receptor in Shoshone County, Idaho (Pinehurst), located in northern Idaho, is more distant from Nevada compared to the receptors located in Utah, Oregon, and California. But NDEP correctly notes that like Utah, Oregon, and California, Idaho shares a border with Nevada.

Second, citing page 16 of the Transport TSD, NDEP encourages EPA to expressly state that ''EPA's analysis shows no significant contribution by Nevada to nonattainment in the Southern California area.''

[6] The full title of the GHG Tailoring Rule is ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.'' For further explanation of the GHG PSD permitting requirements, *see* the GHG Tailoring Rule, 75 FR 31514 (June 3, 2010); ''Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Findings of Substantial Inadequacy and SIP Call; Final Rule,'' 75 FR 77698 (December 13, 2010); ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas-Emitting Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010).

In Section IV.B.3. of our Transport TSD (see pages 15–16), regarding nonattainment receptors in California, for four of the five areas discussed we stated that ''we believe it is reasonable to conclude that emissions from Nevada sources do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ standard at these receptor locations.'' We inadvertently did not make such a statement for the Southern California—Los Angeles, Riverside, San Bernardino area. In response to this comment, we are clarifying our conclusion that emissions from Nevada sources do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ standard at the Southern California—Los Angeles, Riverside, San Bernardino nonattainment receptor locations.

Third, citing pages 20–22 of the Transport TSD, NDEP states that ''EPA reaches a conclusion that Nevada emissions do not interfere with maintenance of the 2006 p.m.$_{2.5}$ NAAQS in California (Section V.B.1.) or Utah (Section V.B.3.); however, no conclusion is stated for Arizona (Section V.B.2).'' NDEP believes a similar conclusion was implied and encourages EPA to state as much for Arizona.

We agree and are clarifying our conclusion that emissions from Nevada sources do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at the Arizona maintenance receptor locations discussed in Section V.B.2 (page 21) of the Transport TSD.

Fourth, NDEP asserts that EPA's discussion on pages 20–22 of the Transport TSD ''appears to talk about *nonattainment* areas rather than maintenance areas'' while ''Table III.A.1 lists Arizona as having two maintenance areas for $PM_{2.5}$ and no nonattainment areas.'' NDEP perceives a discrepancy therein.

It appears NDEP has misunderstood a distinction that EPA is making between nonattainment or maintenance *receptors* and nonattainment or maintenance *areas.* Table III.A.1 lists the nonattainment and maintenance ''receptors'' located in western counties, which EPA selected based on the criteria discussed in Section III.A (''Discussion of Nonattainment and Maintenance Receptor Selection Methodology''). These criteria for selection of nonattainment and maintenance ''receptors'' are not related to the criteria for designation of nonattainment areas under CAA section 107 or for approval of maintenance plans under CAA section 175A. Thus, it is possible to have maintenance ''receptors'' in areas that have been designated as nonattainment areas, as in Arizona and Utah.

Fifth, NDEP states that ''Table III.A.1 lists Utah as having no maintenance areas, so the NDEP is uncertain why Utah is discussed in section V of this Appendix'' and that ''[t]he discussion of nonattainment areas in Utah (Section IV.B.1.) appears to be repeated in Section V.B.3 for maintenance receptors.'' NDEP perceives a discrepancy therein.

We disagree that Table III.A.1 (''List of Western Counties with Daily $PM_{2.5}$ Nonattainment or Maintenance Receptors'', page 8) lists Utah as having no maintenance areas. The last three rows for Utah in this table include an asterisk in the Receptor Type column. The asterisk is defined below the table as follows: ''This county contains both nonattainment and maintenance receptors. *See* Appendix A for more details.'' Appendix A (''List of Nonattainment and Maintenance Receptors for 2006–2010''), in turn, lists all of the individual receptors that were summarized by county in Table III.A.1. There is one maintenance receptor in each of Utah and Weber counties, Utah—hence our discussion of Utah in Section V (''Transport Assessment for Maintenance Receptors''). The discussion of nonattainment receptors in Utah (Section IV.B.1.) is similar to the discussion in Section V.B.3 for maintenance receptors in Utah because the receptors are near to each other and the potential for transport from Nevada for each is similar.

Comment #5:

NDEP comment number 7 addresses EPA's statements in the Overarching TSD (pages 11–13) regarding certain provisions that are part of the Nevada SIP, but have been repealed or replaced in the Nevada Administrative Code (NAC). NDEP highlights that such regulations ''have not been rescinded from the Nevada SIP, and EPA considers them to be federally enforceable'' and suggests that a more accurate characterization would be to say that such provisions ''have been repealed or replaced in the NAC, but not in the SIP.''

Response #5:

It is true that the regulations cited in pages 11–13 of our Overarching TSD having parenthetical notes about replacement or repeal can be accurately characterized as having been repealed or replaced in the NAC (i.e., at the state level), but remaining in the Nevada SIP (i.e., the set of federally enforceable provisions with respect to Nevada air quality). In part, our intent was to clarify the status of these provisions so that the public could more readily understand which provisions are in effect and to identify certain provisions that, as repealed or replaced (but not revised in the SIP), did not provide support for how Nevada meets the section 110(a)(2)(C) requirement that each SIP ''include a program to provide for the enforcement of the measures described in [section 110(a)(2)(A)].''

However, the broader meaning of such clarifications and identifications relates to CAA section 110(a)(1), which requires the state to adopt and submit ''a plan which provides for implementation, maintenance, and enforcement'' of the relevant NAAQS (i.e., the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS, in this case). On its face, if Nevada has repealed or replaced certain Nevada Administrative Codes, we would understand this to mean that NDEP is not in fact implementing such regulations as part of a plan to implement, maintain, and enforce the NAAQS. In other words, infrastructure SIPs are not merely a measure of what is federally enforceable under a state's SIP; they are a collection of the provisions and plans that the state actively employs to implement the NAAQS.

Our Overarching TSD discussed three provisions in particular wherein we noted that ''it is not clear how Nevada intended that these regulations support the enforcement of the emission limitation regulations.'' *See* Overarching TSD at page 13. We reiterate our statement from that same page, however, that ''[n]otwithstanding these three provisions, on the basis of the statutory and regulatory provisions, which have been approved into the SIP, we find that Nevada has an adequate program for enforcement of its provisions for emission limits at the state level.''

Comment and Response #6:

NDEP comment number 9 recommends several corrections and clarifications to the text of our Overarching TSD. We respond to each sub-comment following separate comment summaries below.

First, NDEP notes that on page 6, footnote 9, the second sentence should read, ''Adele Malone, Supervisor, Planning and Modeling Branch, * * *.'' We thank NDEP for its clarification regarding the Branch title, which we had listed as ''Air Planning Branch'' in footnote 9 of the Overarching TSD.

Second, NDEP notes that on page 11 EPA listed Nevada Air Quality Regulation (NAQR) Article 16.3.3.2 and 16.3.3.3 as having been cited in support of CAA 110(a)(2)(C), and requests EPA to remove it from the list of submitted

regulations. We agree that Articles 16.3.3.2 and 16.3.3.3 were not cited in Nevada's Infrastructure SIP Submittals for section 110(a)(2)(C); our inclusion of these provisions in the list of regulations with respect to 110(a)(2)(C) was an inadvertent addition.

To clarify further, Nevada's 2008 Ozone Submittal, 2008 $PM_{2.5}$ Submittal, and 2009 $PM_{2.5}$ Submittal each cited Article 16.3.3.2 and 16.3.3.3 listed for section 110(a)(2)(A). See Enclosure 1, page 1 of each of these submittals. Given that these regulations pertain to opacity emission limits for kilns and related clinker coolers, they are appropriate for purposes of addressing the requirements of section 110(a)(2)(A), as referenced by these submittals and discussed in our Overarching TSD.

Third, NDEP notes a contradiction in the last sentence of the first full paragraph of page 43 regarding the PSD portion of the section 110(a)(2)(J) requirements and Clark County. We agree that this sentence contradicts our other stated conclusions regarding Clark County's PSD program and the PSD requirements of CAA section 110(a)(2)(J). We hereby clarify that our intended statement, as noted in the conclusion paragraph of that same page, was that ''the Clark County portion of the Nevada SIP meets the PSD-related requirements of section 110(a)(2)(J), contingent upon final approval of the proposed SIP revisions [for permitting new or modified stationary sources in Clark County].'' Furthermore, based on our final approval of those Clark County SIP revisions,[7] we are finalizing our approval of section 110(a)(2)(J) for the Clark County portion of the SIP.

Fourth, NDEP believes that EPA had intended to reference NAQR Article 13.3.1.2(b) on page 45, rather than Article 13.4.1.2(b), and that the latter is not in the applicable Nevada SIP. NDEP also refers to 77 FR 14862. We referred to Article 13.4.1.2(b) with respect to the requirements of section 110(a)(2)(K) because it was included in Enclosure 2 of Nevada's 2008 Ozone Submittal, 2008 $p.m._{2.5}$ Submittal, and 2009 $p.m._{2.5}$ Submittal and contains requirements for diffusion models for the permitting review of new sources. However, NDEP is correct that Article 13.4.1.2(b) is not in the Nevada SIP. Rather, Article 13.3.1.2(b), which is part of the Nevada SIP and contains requirements for diffusion modeling, relates most closely to the air quality modeling requirements of section 110(a)(2)(K). *See* 77 FR 14682 at 14872.

Fifth, NDEP notes that Footnote 19 states that '' * * * NDEP repealed NAC 445.694 and did not submit a replacement for inclusion in the SIP.'' NDEP states that this footnote was inaccurate since the authority to repeal a state regulation lies with the Nevada State Environmental Commission. We thank NDEP for its clarification. Footnote 19 of the Overarching TSD should have made clear that the State Environmental Commission is the body authorized under state law to adopt regulations to prevent, abate and control air pollution (NRS 445B.210), the Department of Conservation and Natural Resources is designated as the air pollution control agency for the State of Nevada for the purposes of the CAA (NRS 445B.205), and the Administrator of NDEP is the official designee of the Director of the Department of Conservation and Natural Resources for the purposes of the CAA, including, but not limited to, adoption, revision, and submittal of SIPs to EPA.

Comment #7:

Washoe County notes a ''minor correction/clarification that should be made'' in EPA's Section 128 TSD on pages 4 and 7. Washoe County identifies the District Health Officer of the Washoe County Health District, or his designee, as the Control Officer, pursuant to Washoe County Air Quality Regulation (AQR) 010.042, rather than the AQMD Director, as stated in EPA's Section 128 TSD. The comment further states that the AQMD Director and Branch Chief are designees of the Control Officer and that the applicability of section 128 does not change and remains as ''not applicable'' because it ''applies to boards and bodies composed of multiple individuals.''

Response #7:

EPA agrees that we should have identified the District Health Officer of Washoe County Health District as the Control Officer in Washoe County. Washoe County Air Quality Regulation (AQR) 010.042 defines ''Control Officer'' as the ''District Health Officer of the Washoe County Health District or the person designated by said District Health Officer to enforce these local air pollution control ordinances and regulations as approved by said District Board of Health created pursuant to the interlocal agreement of the City of Reno, the City of Sparks, and the County of Washoe, Nevada.'' AQR 020.020 (''Control Officer—Powers and Duties'') states that the ''Control Officer, or his designated agent or representative, shall enforce the provisions of these [air pollution control] regulations.'' From the context of Washoe County's comments and conversation with WCHD–AQMD staff, we understand the AQMD Director and Branch Chief to be designated agents or representatives of the Control Officer (i.e., the District Health Officer of the Washoe County Health District), pursuant to AQR 020.020.

We cited AQR 020.020 in our Section 128 TSD because it authorizes the Control Officer and his designated agents or representatives to issue corrective action orders (a kind of enforcement order). Thus, the Control Officer and his designated agents or representatives are subject to the requirements of section 128(a)(2). This reflects a point of distinction with respect to Washoe County's comment that the requirements of CAA section 128 are ''not applicable'' to the Control Officer or his agents or representatives. While we agree that section 128(a)(1) regarding *board* membership requirements does not apply to individual decision-makers, such as the Control Officer, we reaffirm that the disclosure requirement of section 128(a)(2) applies both to board members *and* to heads of executive agencies and their delegates as is clear on the face of the statute. *See* page 2 of our Section 128 TSD.

As a result, we have assessed whether the Washoe County District Health Officer is covered by Nevada's statutes concerning disclosure of potential conflicts of interest. As per NRS 281A.160.1, a public officer in Nevada is defined by two criteria: (a) that the person is appointed or elected to a position established by a charter or ordinance of any county, and (b) that his or her position ''[i]nvolves the exercise of a public power, trust, or duty.'' The District Health Officer is a public officer under these criteria because he or she is a person appointed to a position established by the Washoe County Code and because approval of permits or enforcement orders under state or county law involves an exercise of a public power, trust or duty.[8]

Our determinations regarding disclosure as it relates to the AQMD Director and Branch Chief remain

[7] We have placed a copy of the signed, pre-publication version of the final rule approving the Clark County SIP revisions in the docket for this rulemaking.

[8] For clarity's sake, we note that NRS 281A.160(2) contains several exemptions for the definition of ''public officer.'' In particular, NRS 281A.160(2)(d) exempts county health officers appointed pursuant to NRS 439.290. It is important to note that while a *county* health officer is appointed by the relevant board of county commissioners, pursuant to NRS 439.290, a *district* health officer in a county whose population is less than 700,000 (e.g., Washoe County) is appointed by the relevant district board of health, pursuant to NRS 439.400. Thus, the exemption under NRS 281A.160 does not apply to the Washoe County District Health Officer.

unchanged. The AQMD Director is a public officer, pursuant to NRS 281A.160, and the AQMD Branch Chief of the Permitting and Compliance Branch is a public employee, pursuant to NRS 281A.150, (*see* pages 8–9 of our Section 128 TSD) and they are both subject to adequate disclosure requirements under CAA section 128(a)(2), as codified at NRS 281A.410 and NRS 281A.420 (*see* pages 11–13 of our Section 128 TSD).

Thus, our overall conclusion remains that the conflict of interest provisions [9] submitted in Nevada's 2012 Submittal meet the requirements of CAA section 128 and section 110(a)(2)(E)(ii). We are therefore finalizing our proposed approval of Nevada's conflict of interest provisions into the SIP and our proposed approval of Nevada's Infrastructure SIP Submittals for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS for section 110(a)(2)(E)(ii).

III. Final Action

Under CAA section 110(k)(3), and based on the evaluation and rationale presented in the proposed rule, the related TSDs, and this final rule, EPA is approving in part and disapproving in part Nevada's Infrastructure SIP Submittals for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. In the following subsections, we list the elements for which we are finalizing approval or disapproval and provide a summary of the basis for those elements that are partially approved and partially disapproved. We also describe the statutory provisions and other materials submitted by NDEP that we are approving herein, and describe the consequences of our disapprovals.

A. Summary of Approvals

EPA is approving Nevada's Infrastructure SIP Submittals with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i) (in part): Interstate pollution transport.
- Section 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.
- Section 110(a)(2)(F) (in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection.
- Section 110(a)(2)(K) (in part): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

We are approving Nevada's Infrastructure SIP Submittals for the Clark County portions of the SIP with respect to the requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) related to PSD based upon our final approval of certain SIP revisions for the review of new or modified stationary sources for the Clark County portion of the SIP.[10]

For section 110(a)(2)(C), we are approving Nevada's Infrastructure SIP Submittals for all three jurisdictions (NDEP, Clark County, and Washoe County) with respect to the requirement that the SIP include a program to provide for enforcement of the emissions limitations described in section 110(a)(2)(A).

With respect to the requirement of CAA section 110(a)(2)(D)(i)(II) (regarding interference with other states' required measures to protect visibility), EPA previously approved Nevada's interstate transport SIP as satisfying this requirement for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS as part of EPA's action on Nevada's Regional Haze SIP. *See* 77 FR 17334 at 17339 (March 26, 2012). For purposes of the 2006 $PM_{2.5}$ NAAQS, in today's final rule we are approving Nevada's Infrastructure SIP Submittals as meeting the visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 2006 $PM_{2.5}$ NAAQS by virtue of Nevada's SIP-approved Regional Haze Plan (77 FR 17334, March 26, 2012), which contains adequate provisions to protect visibility in other states.

With respect to section 110(a)(2)(F), for the NDEP and Washoe County portions of the SIP, we are approving Nevada's Infrastructure SIP Submittals for all three subsections of section 110(a)(2)(F). We note that EPA has approved three Nevada Administrative Code (NAC) sections cited by NDEP in its 2012 Submittal, NAC sections 445B.315(3), 445B.3368, and 445B.346, in a separate rulemaking (*see* the pre-publication version signed August 30, 2012 and included in the docket of today's final rule). These provisions provide additional support for the NDEP portion of the SIP as meeting the requirements of sections 110(a)(2)(F)(ii) and 110(a)(2)(F)(iii). For the Washoe County portion of the SIP, our approval of subsections 110(a)(2)(F)(ii) and 110(a)(2)(F)(iii) is based on our approval of four Washoe County rules, AQR 030.218, 030.230, 030.235, and 030.970, which were included in the 2012 Submittal, in a separate rulemaking (*see* the pre-publication version signed September 14, 2012 and included in the docket of today's final rule). With respect to the Clark County portion of the SIP, we are approving the SIP for sections 110(a)(2)(F)(i) and (ii) based upon our final approval of certain SIP revisions for the review of new or modified stationary sources in Clark County.[11]

B. Approval of Statutory Provisions and Other Materials

In connection with our approval, or partial approval, of Nevada's Infrastructure SIP Submittals for these requirements as listed above, we are approving into the Nevada SIP certain statutes and other materials, which were included in the 2009 $PM_{2.5}$ Supplement and the 2012 Submittal.

First, with respect to section 110(a)(2)(E)(i) (i.e., necessary assurances for adequate personnel, funding, and authority), EPA is approving an interlocal agreement among the Washoe County District Board of Health, Washoe County and the cities of Reno and Sparks concerning the Washoe County District Health Department, and a comprehensive revision to Section 12 (''Resources'') of the Nevada SIP. The interlocal agreement was submitted as Attachment D of Nevada's 2009 $PM_{2.5}$ Supplement and the revision to Section 12 was submitted as Attachment A to Nevada's 2012 Submittal. NDEP's 2012 revision to Section 12 hereby replaces, in its entirety, the former SIP version of Section 12, approved on May 31, 1972 (37 FR 10842), in the Nevada SIP.

[9] i.e., NRS 232A.020, NRS 281A.150, NRS 281A.160, NRS 281A.400, NRS 281A.410, and NRS 281A.420.

[10] EPA's final rule on the Clark County NSR SIP revisions is included in the docket of today's final rule. While the Clark County NSR final rule is a limited approval and limited disapproval, the permitting elements necessary for infrastructure SIP approval for the Clark County portion of the SIP were all among those that were approved.

[11] As noted previously, we have placed a copy of the signed, pre-publication version of the final rule approving the Clark County SIP revisions in the docket for this rulemaking.

Second, in connection with our approval of Nevada's Infrastructure SIP Submittals with respect to section 110(a)(2)(E)(ii) (i.e., State board conflict of interest requirements under CAA section 128), EPA is approving Nevada Revised Statutes (NRS) sections 232A.020, 281A.150, 281A.160, 281A.400, 281A.410, and 281A.420, as provided in Attachment B of Nevada's 2012 Submittal, into the Nevada SIP.

Third and last, in connection with our approval of Nevada's Infrastructure SIP Submittals with respect to section 110(a)(2)(J) (in part) and (M), EPA is approving a comprehensive revision to Section 11 (''Intergovernmental Consultation'') of the Nevada SIP, which is included as Attachment D to Nevada's 2012 Submittal. NDEP's 2012 revision to Section 11 hereby replaces, in its entirety, the former SIP version of Section 11, approved on May 31, 1972 (37 FR 10842), in the Nevada SIP.

Nevada's 2012 revision to Section 11 (''Intergovernmental Consultation'') cites a number of statutes. Two of these, NRS section 445B.503 and NRS section 439.390, are included as exhibits to Section 11 and are new to the SIP.[12] Another statute, NRS 445B.500, is included in Attachment B to the 2012 Submittal as an update to the former version of NRS 445B.500, which EPA had approved into the Nevada SIP (71 FR 51766, August 31, 2006). We are approving NRS 445B.503, NRS 439.390, and the updated version of NRS 445B.500 into the Nevada SIP in connection with our approval of the 2012 revision to Section 11 of the Nevada SIP. The updated version of NRS 445B.500 hereby replaces, in its entirety, the former SIP version of NRS 445B.500 in the Nevada SIP.

C. Summary of Disapprovals

EPA is disapproving Nevada's Infrastructure SIP Submittals for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(C)(in part): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i)(in part): Interstate pollution transport.
- Section 110(a)(2)(D)(ii)(in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(F)(in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(J)(in part): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection.
- Section 110(a)(2)(K)(in part): Air quality modeling and submission of modeling data.

As explained in our proposed rule and Overarching TSD, we are disapproving Nevada's Infrastructure SIP Submittals for the NDEP and Washoe County portions of the SIP with respect to the requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) related to PSD because the Nevada SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under part C of title I of the Act. Both NDEP and WCHD–AQMD currently implement the Federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants, pursuant to delegation agreements with EPA. *See* 40 CFR 52.1485.[13] Accordingly, although the Nevada SIP remains deficient with respect to PSD requirements in both the NDEP and Washoe County portions of the SIP, these deficiencies are adequately addressed in both areas by the Federal PSD program.

With respect to the requirements regarding interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS, EPA previously approved an interstate transport SIP submitted by Nevada as satisfying the requirements of CAA section 110(a)(D)(i)(I). *See* 72 FR 41629 (July 31, 2007). For the 2006 24-hour $PM_{2.5}$ NAAQS, in today's final rule we are partially approving and partially disapproving Nevada's 2009 $PM_{2.5}$ Submittal, and 2009 $PM_{2.5}$ Supplement. We are partially disapproving the submissions because they rely on irrelevant factors and lack any technical analysis to support the State's conclusion with respect to interstate transport. We are also partially approving the submission, however, based on EPA's supplemental evaluation of relevant technical information, which supports a finding that emissions from Nevada do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state and that the existing Nevada SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* our 2006 $PM_{2.5}$ Transport TSD.[14]

With respect to section 110(a)(2)(F), we are disapproving the Clark County portion of the SIP for subsection 110(a)(2)(F)(iii) because Clark County has repealed its regulation, Section 24, that formerly addressed the correlation requirement of this subsection, without submitting a SIP revision to replace it.

D. Consequences of Disapprovals

EPA takes a disapproval of a state plan very seriously. Rather than implement a FIP, we believe that it is preferable, and preferred in the provisions of the Clean Air Act, for states to implement the CAA requirements through state provisions that are developed and adopted by the state and approved into the SIP by EPA. A state plan need not contain exactly the same provisions that EPA might require, but EPA must be able to find that the state plan is consistent with the requirements of the Act in accordance with its obligations under section 110(k). Further, EPA's oversight role requires that it assure consistent implementation of Clean Air Act requirements by states across the country, even while acknowledging that individual decisions from source to source or state to state may not have identical outcomes. EPA believes these disapprovals are the only path that is consistent with the Act at this time.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D of title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in

[12] In our proposed rule, we requested clarification as to whether NDEP intends NRS 439.390 to be included in the Nevada SIP. *See* 77 FR 46361 at 46367, footnote 26. NDEP's submittal on August 30, 2012 included NRS 439.390 in Attachment B (''Statutes for Inclusion in the Nevada [Applicable SIP]''). As such we are finalizing approval of NRS 439.390 into the Nevada SIP.

[13] EPA fully delegated the implementation of the federal PSD programs to NDEP on October 19, 2004 (''Agreement for Delegation of the Federal Prevention of Significant Deterioration (PSD) Program by the United States Environmental Protection Agency, Region 9 to the Nevada Division of Environmental Protection''), as updated on September 15, 2011, and to Washoe County on March 13, 2008 (''Agreement for Delegation of the Federal Prevention of Significant Deterioration (PSD) Program by the United States Environmental Protection Agency, Region 9 to the Washoe County District Health Department'').

[14] The recent opinion vacating the Transport Rule, *EME Homer City Generation* v. *EPA,* No. 11–1302 (DC Cir., August 21, 2012), does not alter our conclusion that the existing Nevada SIP adequately addresses this requirement. Nothing in the *Homer City* opinion disturbs or calls into question that conclusion or the validity of the technical information on which our August 3, 2012 proposal relied—*e.g.,* ambient $PM_{2.5}$ levels at monitoring sites representative of regional background in nearby states and relevant meteorological and topographical information. In addition, nothing in that opinion undermines our proposed conclusion, based on our review of the available technical information, that emissions from Nevada do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state.

CAA section 110(k)(5) (SIP Call) starts a sanctions clock. Nevada's Infrastructure SIP Submittals were not submitted to meet either of these requirements. Therefore, our partial disapproval of Nevada's Infrastructure SIP Submittals does not trigger mandatory sanctions under CAA section 179.

In addition, CAA section 110(c)(1) provides that EPA must promulgate a Federal Implementation Plan (FIP) within two years after finding that a State has failed to make a required submission or disapproving a State implementation plan submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period.

With respect to our partial approval and partial disapproval of Nevada's submissions related to interstate transport under CAA section 110(a)(2)(D)(i)(I), we conclude that any FIP obligation resulting from our final, partial disapproval is satisfied by our determination that there is no deficiency in the SIP to correct. Such disapproval also does not require any further action on Nevada's part given EPA's conclusion that the SIP is adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS.

With respect to our final disapproval of Nevada's Infrastructure SIP Submittals for section 110(a)(2)(F)(iii) for the Clark County portion of the SIP, today's action establishes a deadline two years from the effective date of this action for EPA to promulgate a FIP, unless EPA approves a SIP revision correcting the deficiency within that two-year period.[15] We encourage the state to submit a SIP revision to address the deficiencies identified in this final rule and we stand ready to work with the state to develop a revised plan.

For all other final disapprovals of today's action (i.e., for the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) for the NDEP and Washoe County portions of the SIP), we conclude that although the Nevada SIP remains deficient with respect to PSD requirements in both the NDEP and Washoe County portions of the SIP, these deficiencies are adequately addressed in each jurisdiction by the Federal PSD program, and therefore no further FIP obligation is triggered by today's action.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action approves certain pre-existing requirements, and disapproves certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA 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.'' ''Policies that have federalism implications'' is defined in the Executive Order 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.''

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national

[15] In our proposed rule, we did not explicitly state how EPA's proposed disapproval of section 110(a)(2)(F)(iii) for the Clark County portion of the SIP would trigger a new FIP obligation for EPA. However, our proposed rule made clear that ''CAA section 110(c)(1) provides that EPA must promulgate a Federal Implementation Plan (FIP) within two years after finding that a State has failed to make a required submission or disapproving a State implementation plan submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period.'' (77 FR 46361 at 46370). By contrast, for our other proposed disapprovals, we made clear that EPA's FIP obligation would be satisfied ''by our determination that there is no deficiency in the SIP to correct'' (for section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS; *see* 77 FR 46361 at 46370) and that the ''deficiencies are adequately addressed in both areas by the Federal PSD program'' (for the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) for the NDEP and Washoe County portions of the SIP; *see* 77 FR 46361 at 46367).

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply approves certain State requirements, and disapproves certain other State requirements, for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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. section 804(2). This rule will be effective on November 23, 2012.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 24, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action 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, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 28, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Therefore, 40 CFR Chapter I 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 DD—Nevada

■ 2. Section 52.1470 in paragraph (e), the table is amended by:

■ a. Revising the entries for ''Section 11—Intergovernmental Consultation,'' ''Section 12—Resources,'' and ''445B.500'';

■ b. Adding an entry for ''Attachment D—Inter-Local Agreement Supporting CAA 110(a)(2)(A)–(M) Requirements'' after the entry for ''Section 11—Intergovernmental Consultation'';

■ c. Adding entries for ''Enclosure 1—CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for 8-Hour Ozone,'' ''Enclosure 1—CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for $PM_{2.5}$,'' ''Enclosure 1—CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for $PM_{2.5}$,'' ''Attachment A—Current CAA 110(a)(2)(A)-(M) Requirements in the Washoe County Portion of the Nevada $PM_{2.5}$ SIP,'' and ''Revisions to Nevada's Clean Air Act Section 110(a)(2) Plan Submittals as of July 2012 (August 2012), excluding attachments A through D'' after the entry for ''Adopted Lead Implementation Plan for the Truckee Meadows Basin, 4/26/84'';

■ d. Adding new table heading titled ''Nevada Revised Statutes, Title 18, State Executive Department, Chapter 232A, Boards, Commissions and Similar Bodies'' after the entry for ''0.039,'' and under the new heading, adding an entry for ''232A.020'';

■ e. Adding new table heading titled ''Nevada Revised Statutes, Title 23, Public Officers and Employees, Chapter 281A, Ethics in Government'' after the new entry for ''232A.020,'' and under the new heading, adding entries in numerical order for ''281A.150,'' ''281A.160,'' ''282A.400,'' ''281A.410,'' and ''281A.420'';

■ f. Adding new table heading titled ''Nevada Revised Statutes, Title 40, Public Health and Safety, Chapter 439, Administration of Public Health'' after the entry for ''366.060,'' and under the new heading, adding an entry for ''439.390''; and

■ g. Adding an entry for ''445B.503'' after the entry for ''445B.500.''

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada				
*	*	*	*	*
Section 11—Intergovernmental Consultation.	State-wide	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted as attachment D to NDEP's August 30, 2012 SIP revision submittal.
Attachment D—Inter-Local Agreement Supporting CAA 110(a)(2)(A)–(M) Requirements.	Washoe County	12/4/09	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted as attachment D to NDEP's December 4, 2009 SIP revision submittal.
Section 12—Resources	State-wide	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted as attachment A to NDEP's August 30, 2012 SIP revision submittal.
*	*	*	*	*
Enclosure 1—CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for 8-Hour Ozone.	State-wide, within NDEP jurisdiction	2/1/08	[Insert **Federal Register** page number where the document begins] 10/23/12.	''Infrastructure'' SIP for the 1997 8-Hour ozone standard. Enclosures (2) and (3) include copies of the regulatory and statutory provisions previously approved in the Nevada SIP.
Enclosure 1—CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for $PM_{2.5}$.	State-wide, within NDEP jurisdiction	2/26/08	[Insert **Federal Register** page number where the document begins] 10/23/12.	''Infrastructure'' SIP for the 1997 $PM_{2.5}$ standard. Enclosures (2) and (3) include copies of the regulatory and statutory provisions previously approved in the Nevada SIP.
Enclosure 1–CAA 110(a)(2)(A)–(M) Requirements in the Current Nevada State Implementation Plan (SIP) for $PM_{2.5}$.	State-wide, within NDEP jurisdiction	9/15/09	[Insert **Federal Register** page number where the document begins] 10/23/12.	''Infrastructure'' SIP for the 2006 $PM_{2.5}$ standard. Enclosures (2) and (3) include copies of the regulatory and statutory provisions previously approved in the Nevada SIP.
Attachment A—Current CAA 110(a)(2)(A)–(M) Requirements in the Washoe County Portion of the Nevada $PM_{2.5}$ SIP.	Washoe County	12/04/09	[Insert **Federal Register** page number where the document begins] 10/23/12.	Attachment B includes Washoe County regulations, that are addressed in separate rulemakings. Attachment C is the PSD delegation agreement between Washoe County District Health Department and EPA Region IX. Attachment D (''Inter-Local Agreement Supporting CAA 110(a)(2)(A)–(M) Requirements'') is approved into the SIP and listed separately in this table.
Revisions to Nevada's Clean Air Act Section 110(a)(2) Plan Submittals as of July 2012 (August 2012), excluding attachments A through D.	State-wide	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Attachment A (''Section 12-Resources''), the individual statutory provisions in attachment B (''Statutes for Inclusion in Nevada's ASIP''), and attachment D (''Section 11—Intergovernmental Consultation'') are listed separately in this table. Attachment C was submitted for information only and not for incorporation into Nevada's SIP.

EPA-APPROVED NEVADA NONREGULATORY AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	* *	*	* *	*
Nevada Revised Statutes, Title 18, State Executive Department, Boards, Chapter 232A, Commissions and Similar Bodies			
232A.020	Residency requirement for appointment; terms of members; vacancies; qualification of member appointed as representative of general public; gubernatorial appointee prohibited from serving on more than one board, commission or similar body.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 14, 2011, as published by the Legislative Counsel, State of Nevada, section 232A.020).
Nevada Revised Statutes, Title 23, Public Officers and Employees, Chapter 281A, Ethics in Government				
281A.150	''Public employee'' defined	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 18, 2011, as published by the Legislative Counsel, State of Nevada, section 281A.150).
281A.160	''Public officer'' defined	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 18, 2011, as published by the Legislative Counsel, State of Nevada, section 481A.160).
281A.400	General requirements; exceptions	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 18, 2011, as published by the Legislative Counsel, State of Nevada, section 281A.400).
281A.410	Limitations on representing or counseling private persons before public agencies; disclosure required by certain public officers.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 18, 2011, as published by the Legislative Counsel, State of Nevada, section 281A.410).
281A.420	Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 18, 2011, as published by the Legislative Counsel, State of Nevada, section 281A.420).
*	* *	*	* *	*
Nevada Revised Statutes, Title 40, Public Health and Safety, Chapter 439, Administration of Public Health				
439.390	District board of health: Composition; qualifications of members.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B, and as an exhibit to attachment D, to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 27, 2011, as published by the Legislative Counsel, State of Nevada, section 439.390).

EPA-APPROVED NEVADA NONREGULATORY AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	* *	*	* *	*
445B.500	Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12.	Submitted in attachment B to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 28, 2011, as published by the Legislative Counsel, State of Nevada, section 445B.500).
445B.503	Local air pollution control board in county whose population is 700,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.	8/30/12	[Insert **Federal Register** page number where the document begins] 10/23/12].	Submitted in attachment B, and as an exhibit to attachment D, to NDEP's August 30, 2012 SIP revision submittal. (Nevada Revised Statutes, Volume 28, 2011, as published by the Legislative Counsel, State of Nevada, section 445B.503).
*	* *	*	* *	*

■ 3. Section 52.1472 is amended by adding paragraphs (d), (e), and (f) to read as follows:

§ 52.1472 Approval status.

* * * * *

(d) *1997 8-hour ozone NAAQS:* The SIPs submitted on February 1, 2008 and August 30, 2012 are partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for the Nevada Division of Environmental Quality (NDEP) and Washoe County portions of the Nevada SIP; and for CAA element 110(a)(2)(F) for the Clark County portion of the Nevada SIP.

(e) *1997 $P_{2.5}$ NAAQS:* The SIPs submitted on February 26, 2008 and August 30, 2012 are partially disapproved for CAA elements 110(a)(2)(C), (D)(ii), (J) and (K) for the NDEP and Washoe County portions of the Nevada SIP; and for CAA element 110(a)(2)(F) for the Clark County portion of the Nevada SIP.

(f) *2006 $PM_{2.5}$ NAAQS:* The SIPs submitted on September 15, 2009, December 4, 2009, and August 30, 2012 are partially disapproved for CAA elements 110(a)(2)(C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality), (D)(ii), (J) and (K) for the NDEP and Washoe County portions of the Nevada SIP; for CAA element 110(a)(2)(D)(i)(I) for the NDEP, Washoe County, and Clark County portions of the Nevada SIP; and for CAA element 110(a)(2)(F) for the Clark County portion of the Nevada SIP.

[FR Doc. 2012–25558 Filed 10–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9743–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Partial Deletion of the Torch Lake Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is publishing a Direct Final Notice of Deletion of the Isle Royale Tailings and Michigan Smelter Tailing parcels of Operable Unit 3 (OU3), and the Mason Sands Tailings parcel of Operable Unit 1 (OU1) of the Torch Lake Superfund Site (Site), located in Houghton County, Michigan from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA, with the concurrence of the State of Michigan through the Michigan Department of Environmental Quality (MDEQ), because EPA has determined that all appropriate response actions under CERCLA at these identified parcels have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface tailings, drums, and slag piles of Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3 and the Mason Sands Tailings parcel of OU1. The following land parcels will remain on the NPL and are not being considered for deletion as part of this action: Dollar Bay, Point Mills, Calumet Lake Tailing, Boston Pond Tailing, North Entry and Quincy Smelter.

DATES: This direct final partial deletion is effective December 24, 2012 unless EPA receives adverse comments by November 23, 2012. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in *the* **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov:* Follow on-line instructions for submitting comments.
- *Email:* Nefertiti DiCosmo, Remedial Project Manager, at *dicosmo.nefertiti@epa.gov*
- *Email:* Dave Novak, Community Involvement Coordinator, at *novak.dave@epa.gov*
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 886–2077.

• *Mail:* Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148, or Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–7478 or 1–800–621–8431.

• *Hand deliver:* Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM 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 *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

Regional Office, U.S. Environmental Protection Agency—Region 5, 77 West Jackson Boulevard, Chicago, IL, 60604, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Lake Linden/Hubbell Public Library, 601 Calumet Street, Lake Linden, MI 49945, (906) 296–0698, Hours: Monday through Friday 8:00am to 4:00 p.m., Tuesday and Thursday 6:00 p.m. to 8:00 p.m.

Portage Lake District Library, 105 Huron, Houghton, MI 49931, (906) 482–4570, Hours: Monday, Tuesday and Thursday 10:00 a.m. to 9:00 p.m., Wednesday and Friday 10:00 a.m. to 5:00 p.m., and Saturday 12:00 p.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4737, *dicosmo.nefertiti@epa.gov*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion

I. Introduction

EPA Region 5 is publishing this Direct Final Notice of Deletion of the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3, and Mason Sands Tailings parcel of OU1 of the Torch Lake Superfund (Site) from the NPL and requests public comments on this action. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Torch Lake Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List (60 FR 55466) on November 1, 1995. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective *December 24, 2012* unless EPA receives adverse comments by *November 23, 2012.* Along with this Direct Final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this direct final Notice for Partial Deletion before the effective date of the partial deletion, and the deletion may not take effect. Alternatively EPA may, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. In this case, there will be no additional opportunity to comment on the agency's response.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3 and the Mason Sands Tailings parcel of OU1 of the Torch Lake Superfund Site and demonstrates how the deletion criteria are met at these land parcels. Section V discusses EPA's action to partially delete the Site parcels from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3, and the Mason Sands Tailings parcel of OU1 of the Torch Lake Superfund Site:

(1) EPA consulted with the State of Michigan prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this Direct Final Notice of Partial Deletion and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through MDEQ, has concurred on the partial deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in the Daily Mining Gazette Newspaper, located in Houghton, Michigan. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL. A public meeting will be held prior to the end of the comment period to ensure the public understands the delisting process and the locations of the land parcels proposed for deletion.

(4) EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this Direct Final Notice of Partial Deletion before its effective date and will prepare a response to comments. EPA may continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3 and Mason Sands Tailings parcel of OU1 of the Torch Lake Superfund Site from the NPL. The Isle Royale Tailings area comprises approximately 64 acres of cover material northwest of U.S. 41, next to Portage Lake. It is located near the town of Houghton, in the northwestern corner of Section 5 in Portage Township, Michigan (Township 54 N Range 33 W). The Torch Lake Superfund Site Isle Royale Tailings property parcel is also referred to as Isle Royale Stamp Mill or Isle Royale Sands. It is the parcel of property on the west side of Houghton that was part of a mine rock crushing operation. The Site has no relation to the Isle Royale that is the island located in Lake Superior.

A legal description of the Isle Royale Tailings portion of the Torch Lake Superfund Site is as follows: A parcel of land in Government Lot 2, Section 5, T54N, R33W, City of Houghton, Houghton County, Michigan. Commencing at the West ¼ corner of said Section 5; thence North 1069.47 feet; thence East 1584.79 feet to the point of beginning on the Northeasterly right-of-way of the Soo Line Railroad; thence N 33° 42′ 20″ E 229.36 feet to the South right-of-way (66-ft. R/W) of Carlos Street of the recorded plat of Royale Isle Subdivision; thence S 56° 17′40″ E 380.00 feet along said Carlos Street right-of-way and extension thereof; thence S 33° 42′ 20″ W 250.29 feet to the Northeasterly right-of-way of said Soo railroad; thence along said right-of-way on a curve to the right N 53° 08′ 19″ W 380.68 feet more or less to the point of beginning.

The Michigan Smelter Tailings parcel is located in a 15-acre, low-lying area of stamp sands east of Houghton Canal Road on the shores of Portage Lake, in Sections 28, 33, and 34 of Adams/Stanton Township, Michigan (55 N Range 34 W). There is a piece of property nearby, on the west side of Houghton Canal Road, known as Michigan Smelter that includes the buildings and abandoned materials where industrial activities took place. This property is not part of the Torch Lake Superfund Site and was not investigated or remediated as part of the Site activities. There may be high levels of arsenic or other contaminants associated with past mining activity in that area, but such contamination would not be considered as part of the Torch Lake Superfund Site.

The legal description of the Michigan Smelter Tailings portion of the Torch Lake Superfund Site is as follows—Parcel 1: Section 33, T55N, R34W, Adams Township, Houghton County, Michigan, Government Lot 1 lying North of County Road 554, except commencing at the North ¼ corner; thence South 320 feet to P.O.B.; thence Southeasterly 90.18 feet; thence Northeasterly 569.59 feet; thence North 202.57 feet; thence Southeasterly 410.48 feet to South right of way of Canal Road; thence Southeasterly along Canal Road 888 feet more or less; thence South 676 feet to South line of Government Lot 1; thence Southwesterly 1692 feet to the West line of Government Lot 1; thence North 980.78 feet to P.O.B. Parcel 2: Section 34, T55N, R34W, Adams Township, Houghton County, Michigan, Government Lot 3 lying North of County Road 554, also West 121.90 feet of Government Lot 4 lying North of County Road 554. Parcel 3: Section 28, T55N, R34W, Stanton Township, Houghton County, Michigan, part of Government Lot 4, commencing North 00° 34′ 31″ West 35.08 feet from South ¹; Corner; thence North 00° 34′ 31″ West 1252.70 feet; thence south 89° 33′ 12″ East 102.60 feet; thence South 89° 35′ 56″ East 151.39 feet to shore; thence South 46° 13′ 52″ East 804.26 feet; thence South 55° 13′ 38″ East 1279.14 ; thence West 713.78 feet; thence North 46° 48′ 32″ West 766.52 feet; thence South 43° 09′ 07″ West 66 feet; thence South 01° 45′ 30″ East 57.69 feet; thence South 08° 31′ 32″ West 141.99 feet; thence South 10° 03′ 39″ West 69.72 feet; thence South 71° 33′ 12″ West 552.04 feet to P.O.B.

The Mason Sands Tailings area is about 225 acres and is located within a fenced in area south of M–26 and expands until the land meets the lake (Torch Lake). It is adjacent to the Village of Mason and is located in Sections 23, 26, and 27 of Township 55 North, Range

33 West. Located within the Mason Sands parcel of the Site are dilapidated industrial structures, building foundations, and other debris. These abandoned structures, foundations and debris are not part of the Torch Lake Superfund Site and were not investigated or remediated. The surface tailings at this Mason area constitute the area addressed by the Torch Lake Site remedial action. The legal description of the Mason Sands portion of the Torch Lake Superfund Site is as follows. Government. Lot 2—Section 14—T.55N–R.33 W lying East of State Highway M–26 Right-of-Way, except as follows: Commencing at a point on shore of Torch Lake 500′ from meander post on line between Sections 13 & 14, thence N.55°40′ West to North boundary line of Lot 2 Section 14, thence East along North boundary of said Lot 2 to shore of Torch Lake, thence Southwesterly along said lake to Point of Beginning except Right-of-Way of C&H RR. 53.32.A. Gov't. Lots 1, 2, 3, and 4—Section 23—T.55 N.–R.33 W. lying East of abandoned railroad Right-of-Way, except as follows: Part of Government Lot 4, Section 23, and Government Lot 5, Section 26, T.55N, R.33W, Osceola Township, Houghton County, Michigan, more particularly described as follows: Commencing at a section corner common to Sections 22, 23, 26 and 27, T.55N, R.33W; then due South 480.66 feet to the point of beginning: thence N43° 54′ 04″ E 1164.53 feet; thence S51° 08′ 38″E 124.89 feet to a point located in the Northwesterly right-of-way line of State Highway M–26; thence S00° 02′ 18'' W 112.29 feet to a point located in the Southeasterly right-of-way line of State Highway M–26; thence S50° 16′ 58″ E 21.89 feet; thence S35° 39′ 41″ E 251.20 feet; thence S32° 31′ 34″ W 189.24 feet; thence N55° 59′ 01″ W 158.27 feet; thence N58° 48′ 17″ W 75.02 feet to a point located in the Northwesterly right-of-way line of an abandoned railroad; thence S32° 31′ 34″ W 44.66 feet along said Northwesterly right-of-way line of an abandoned railroad; thence on a curve to the right, having a radius of 2814.93 feet a long chord bearing and distance of S39° 15′ 17″ W 659.63 feet, 661.15 feet along said Northwesterly right-of-way line of an abandoned railroad; thence continuing along said abandoned railroad right-of-way S45° 59′ 00″ W 458.12 feet; thence due North 468.57 feet to the point of beginning, containing 461,453 square feet, which is 10.59 acres including road right-of-ways. Government. Lot 5—Section 26—T.55N–R.33W. lying East of abandoned railroad Right-of-Way, except as follows: Part of Government Lot 4, Section 23, and Government Lot 5, Section 26, T.55N, R.33W., Osceola Township, Houghton County, Michigan, more particularly described as follows: Commencing at a section corner common to Sections 22, 23, 26, and 27, T.55N, R.33W.; then due South 480.66 feet to the point of beginning: thence N43° 54′ 04″ E 1164.53 feet; thence S51° 08′ 38″ E 124.89 feet to a point located in the Northwesterly right-of-way line of State Highway M–26; thence S00° 02′ 18″ W 112.29 feet to a point located in the Southeasterly right-of-way line of State Highway M–26; thence S50° 16′ 58″ E 21.89 feet; thence S35° 39′ 41″ E 251.20 feet; thence S32° 31′ 34″ W 189.24 feet; thence N55° 59′ 01″ W 158.27 feet; thence N58° 48′ 17″ W 75.02 feet to a point located in the Northwesterly right-of-way line of an abandoned railroad; thence S32° 31′ 34″ W 44.66 feet along said Northwesterly right-of-way line of an abandoned railroad; thence on a curve to the right, having a radius of 2814.93 feet a long chord bearing and distance of S39° 15′ 17″ W 659.63 feet, 661.15 feet along said Northwesterly right-of-way line of an abandoned railroad; thence continuing along said abandoned railroad right-of-way S45° 59′ 00″ W 458.12 feet; thence due North 468.57 feet to the point of beginning, containing 461,453 square feet, which is 10.59 acres including road right-of-ways. Government Lot 1—Section 27—T.55N–R.33W lying east of abandoned railroad Right-of-Way. That portion of Government Lot 2—Section 27—T.55N–R.33W lying in the West ½ of the Southwest ¼ of said Section. It being understood and intended that the above described land extends to the waters edge of Torch Lake and to include any tailing sands and slag that may have accreted to said land, or to other lands in Section 26—T.55N.—R.33W.

Site Background and History

Site Location

The Site is located on the Keweenaw Peninsula in Houghton County, Michigan. The Site *(CERCLIS ID MID980901946)* includes Torch Lake, the northern portion of Portage Lake, and the northern entry of Torch Lake. The following areas were selected for remedial measures and thus became part of the Site: defined areas of stamp sands, tailing piles, and slag materials along the shore of and in the vicinity of Torch Lake, Northern Portage Lake, Keweenaw Waterway, Lake Superior, Boston Pond, Calumet Lake, Lake Linden, Hubbell/Tamarack City, Mason, Calumet Lake, Michigan Smelter, Isle Royale, Gross Point, and Quincy Smelter. These defined areas were not investigated at depth and were defined as part of the Torch Lake Superfund Site the surficial materials (stamp sands, tailings, and slag) on these areas and their relative locations to the Torch Lake water body. These areas cover over 600 acres. During the Site investigation, samples were taken of the surface (0–6 inches) and shallow subsurface (0–3 feet) stamp sands, tailings, and slag piles at the frequency of approximately one composite sample per 20 acre-parcel. Data generated reflected similar chemical characteristics in all samples collected. This data was sufficient to assume homogeneity of these materials and to support selection of the Site's remedial action.

The remedial action included the installation of a soil vegetative cover over these defined areas of stamp sands, tailings, and slag in order to meet the Site Remedial Action Objectives (RAOs). The remedial action only addressed surfurce materials associated with the covered land parcels. There may be non-Site related contamination with depth or in the vicinity of these defined areas of stamp sands, tailings, and slag that are not addressed by this Site remedial action (i.e., vegetative cover). This potential contamination was not evaluated or addressed as part of the remedial measures for the Torch Lake Superfund Site. Non-Site related contamination, if identified in the future, will not be addressed by a subsequent action as part of the Torch Lake Superfund Site's remedial action.

Site History

Torch Lake was the site of copper milling and smelting facilities and operations for over 100 years. Torch Lake was a repository of milling wastes, and served as the waterway transportation to support the mining industry. The first mill opened on Torch Lake in 1868. At the mills, copper was extracted by crushing or stamping the rock into smaller pieces and driving them through successively smaller meshes. The copper and crushed rocks were separated by gravimetric sorting in a liquid medium. The copper was sent to a smelter. The crushed rock particles, called tailings, were discarded along with mill processing water, typically by pumping them into the Lake.

Mining output, milling activity, and tailing production peaked in the Keweenaw Peninsula in the early 1900s to 1920. All of the mills at Torch Lake were located on the west shore of the Lake and many other mining mills and smelters were located throughout the Keweenaw Peninsula. In the early

1900s, advances in technology allowed recovery of copper from tailings previously deposited in Torch Lake. Dredges were used to collect submerged tailings which were then screened, recrushed, and gravity separated. An ammonia leaching process involving cupric ammonium carbonate was used to recover copper and other metals from conglomerate tailings. During the 1920s, chemical reagents were used to further increase the efficiency of reclamation. The chemical reagents included lime, pyridine oil, coal tar creosotes, wood creosote, pine oil, and xanthates. After reclamation activities were complete, chemically treated tailings were returned to the lake. In the 1930s and 1940s, the Torch Lake mills operated mainly to recover tailings in Torch Lake. In the 1950s, copper mills were still active; but by the late 1960s, copper milling had ceased.

Over 5 million tons of native copper was produced from the Keweenaw Peninsula and more than half of this was processed along the shores of Torch Lake. Between 1868 and 1968, approximately 200 million tons of tailings were dumped into Torch Lake filling at least 20 percent of the Lake's original volume.

In June 1972, a discharge of 27,000 gallons of cupric ammonium carbonate leaching liquor occurred into the north end of Torch Lake from the storage vats at the Lake Linden Leaching Plant. The Michigan Water Resources Commission (MWRC) investigated the spill. The 1973 MWRC report discerned no deleterious effects associated with the spill, but did observe discoloration of several acres of the lake bottom indicating previous discharges. In the 1970s, environmental concern developed regarding the century-long deposition of tailings into Torch Lake. High concentrations of copper and other heavy metals in Torch Lake sediments, toxic discharges into the Lake, and fish abnormalities prompted many investigations into long and short-term impacts attributed to mine waste disposal. The International Joint Commission's Water Quality Board designated the Torch Lake basin as a Great Lakes Area of Concern (AOC) in 1983. Also in 1983, the Michigan Department of Public Health announced an advisory against the consumption of Torch Lake sauger and walleye fish due to tumors of unknown origin.

The Torch Lake Site was proposed for inclusion on the National Priorities List (NPL) in October of 1984, **Federal Register** (49 FR 40320). The Site was placed on the NPL in June 1986, (51 FR21054). The Torch Lake Site is also on the list of sites identified under Michigan's Natural Resources and Environmental Protection Act 451 Part 201. Residential use is planned for these land parcels after they are deleted from the NPL.

Remedial Investigation and Feasibility Study (RI/FS)

On May 9, 1988 Special Notice Letters were issued to Universal Oil Products and Quincy Mining Company to perform a Remedial Investigation/Feasibility Study (RI/FS). Universal Oil Products was the successor corporation of Calumet Hecla Mining Company which operated its milling and smelting on the shore of Lake Linden and disposed the generated tailings in the area. On June 13, 1988 a Notice Letter was issued to Quincy Development Company, which was the current owner of a tailing pile located on the Lake shore of Mason City. Negotiations for the RI/FS Consent Order with these Potentially Responsible Parties (PRPs) were not successful due to issues such as the extent of the Site, and the number of PRPs. Subsequently, EPA contracted with Donohue & Associates in November 1988 to perform the RI/FS at the Site.

On June 21, 1989 EPA collected a total of eight samples from drums located in the Old Calumet and Hecla Smelting Mill Site near Lake Linden, the Ahmeek Mill Site near Hubbell City, and the Quincy Site near Mason. On August 1, 1990 nine more samples were collected from drums located above the Tamarack Site near Tamarack City. Based on the results of these samples, EPA determined that some of these drums may have contained hazardous substances. During the week of May 8, 1989 EPA also conducted ground penetrating radar and a sub bottom profile (seismic) survey of the bottom of Torch Lake. The area in which this survey was conducted is immediately off-shore from the Old Calumet and Hecla Smelting Mill Site. The survey located several point targets (possibly drums) on the bottom of Torch Lake.

Due to the size and complex nature of the Site, six OUs have been defined for the Site. OU1, OU2 and OU3 are the remedial OUs; and OU4, OU5 and OU6 are the removal OUs. OU1 includes surface tailings, drums, and slag piles on the western shore of Torch Lake. Approximately 500 acres of tailings were previously exposed surficially in OU1. The Hubbell/Tamarack Tailings, the Lake Linden Tailings and Mason Sands parcels are included in OU1. OU2 includes groundwater, surface water, submerged tailings and sediment in Torch Lake, Portage Lake, the Portage channel, and other surface water bodies at the Site. OU3 includes the North Entry of Lake Superior Tailings, Michigan Smelter Tailings, Quincy Smelter Tailings, Calumet Lake Tailings, Isle Royale Tailings, Boston Pond Tailings, and Grosse-Point (Point Mills) Tailings, and Dollar Bay Tailings. Remedial Investigations have been completed for all six OUs. The RI for OUs 1 and 3 only investigated the surface (0–6 inches) and shallow subsurface (0–3 feet) stamp sands. In addition, the RI assumed that the stamp sands were homogenous, i.e., the stamp sands had similar characteristics wherever they were located.

The sampling performed to characterize the OU3 and OU1 tailings was adequate to select the Torch Lake Site remedial action based on the homogeneity of the parameters measured, the distribution of contaminant compounds, and the relatively low levels of contaminants found. While hot spot contamination may exist, it is not attributable to tailings composition, and could not be reliably located or predicted using any reasonable sampling program. The RI and Baseline Risk Assessment (BRA) reports for OU1 were finalized in July 1991. The RI and BRA reports for OU3 were finalized on February 7, 1992.

Record of Decision Findings

The Record of Decision (ROD) for OU1 and OU3 was signed on September 30, 1992; and the ROD for OU2 was signed on March 31, 1994.

Operable Unit 1 and Operable Unit 3 ROD (September 30, 1992)

The selected remedial action for the various tailings areas was a soil and vegetative cover, and deed restrictions to control the migration of tailing piles. The cover prevents direct contact exposures as well as prevents erosion from surface water runoff and the wind. The cover helps prevent the further degradation of Torch Lake's eco-system, allowing the Lake to recover over time.

The RAOs for OU1 and OU3 were developed as a result of data collected during the RI and included activities to reduce or minimize the exposure to and release of contaminants in tailings and/or slag located at the Site. These include:

1. Reduce or minimize potential risks to human health associated with the inhalation of airborne contaminants from the tailings and/or slag located at the Site;

2. Reduce or minimize potential risks to human health associated with direct contact with and/or the ingestion of the tailings and/or the slag located at the Site;

3. Reduce or minimize the release of contaminants in tailings to the groundwater through leaching; and

4. Reduce or minimize the release of contaminants in tailings to the surface water and sediment by soil erosion and/or air deposition.

All of the RAOs for the Torch Lake parcels in this deletion package have been met with the successful implementation of a vegetative cover over the stamp sands, tailing piles, and slag materials and with the implementation of deed restrictions which prevent disturbance of the vegetative covers. The vegetative soil cover reduces airborne and direct contact exposure to the contaminants in the stamp sands, tailings, and slag. The affected groundwater is part of OU2, for which the selected remedy was no action. OU2 was deleted from the NPL in 2002 and since the selected remedy for groundwater was no action, the reduction or minimization of the release of contaminants in tailings to the groundwater through leaching does not apply to OU's 1 and 3. The vegetative soil cover serves to stabilize the stamp sands, tailings, and slag and reduce the erosion of these materials and their associated contaminants to the surface water and sediment.

A 12 acre portion of the Isle Royale tailings in OU3 was excluded from the area to be covered with soil and vegetation because it was developed as a sewage treatment facility. The remaining 48 acres was covered with soil and vegetation by the Portage Lake Water and Sewage Authority as part of the sewage treatment facility development plan.

A 90 acre portion of the Isle Royale Tailings was developed as a residential area and was excluded from the area to be covered with soil and vegetation.

A 60 acre area of the Isle Royale Tailings portion is currently being used to make cement blocks and as a finished block storage area for the Superior Block Company and was excluded from the area to be covered with soil and vegetation. The owner and/or operator of Superior Block Company must use dust control measures such as water spray during the operation of mining and other activities in order to reduce the release of dust into the air.

Operable Unit 2 ROD (March 31, 1994)

The selected remedy for OU2 (groundwater, surface water and sediments associated with the Site), which is not the focus of this partial deletion, was ''No Action'' with long-term monitoring and Institutional Controls with respect to groundwater use. OU2 is impacted by OU1 and OU3 because wind-blown and eroded tailings from OU1 and OU3 migrate into the surface water and contaminate the sediment. The contaminated stamp sand serves as a continuing source of environmentally harmful contamination to the Lake and diminished the effectiveness of the Lake's natural sedimentation process.

Remedial Design

In August 1994, an Interagency Agreement (IAG) was signed with the United States Department of Agriculture (USDA)-Natural Resources Conservation Service (NRCS) to perform remedial design (RD) work. The RD was conducted in conformance with the 1992 ROD and was completed for the entire Site in September 1998.

Construction Activities

Actual on-site construction began in June 1999 and was completed in September 2005. A Preliminary Close-Out Report (PCOR) documenting construction completion was signed on September 23, 2005.

Operable Unit 1

Mason Sands Tailings (225 acres covered) were covered in October 2002. Just prior to on-site construction activities at Mason Sands, the USDA–NRCS commissioned Michigan Technological University to conduct an archaeological survey to evaluate and document the cultural remnants at the Mason Sands portion of the Site. This was done because of the numerous historical mining and milling related relics located around the Mason area and the concern over losing important cultural remnants as a result of remedy implementation. The results of the survey were presented in a report dated May 2001, ''*Archeological Survey Report of the Quincy Mining Company Torch Lake Smelter & Reclamation Plant at Mason Sands Torch Lake EPA Superfund Site*'', which was filed in the EPA's Torch Lake Site Administrative Record. The May 2001 report concluded that implementation of the remedy at the Mason Sands portion of the Site would have only a minor negative impact on cultural and historical values, and therefore, EPA proceeded with remedy implementation.

The remedial design specifications were modified during the implementation phase and sandy soil, consisting of six to ten inches of sandy-loam soil and a vegetative mat were used in place of topsoil. The vegetative mat was achieved through a seed mix applied directly on top of the sandy-loam soil. The seed mix was typically applied at approximately 90 pounds per acre. The typical seed mix contained six species of plants, including perennial ryegrass (Lolium perene), tall fescue (Festuca arundinacea), creeping red fescue (Festica rubra), red clover (Trifolium pratense), alfalfa (vernal Medicago falcata), and birdsfoot trefoil (Lotus comiculatus). This mix of plant species was selected because of their rapid growth rate and relative resilience with minimal maintenance. Rapid stabilization of the soil cover material with vegetation was important at the Site in order to avoid soil washouts and to accommodate the short growing season. Variations of this seed mix were applied to a small number of areas to accommodate landowner preference. Overall, the vegetative growth is well established and is stabilizing the soil portion of the cover material.

The sandy-loam borrow soil was located and obtained by construction firms under contract with the USDA–NRCS to implement the remedy and met modified USDA–NRCS soil specifications. Borrow soils for Mason Sands were obtained directly across the narrow Torch Lake channel located on the south-east shore of the Mason Sands. Remedial action construction activities were performed according to approved design and specifications at Mason Sands and it is anticipated that the cover material and shoreline protection will continue to meet remedial action objectives established for the Site.

Operable Unit 2

No physical work was required as part of the OU2 No Action ROD, thus there were no construction activities for this OU. EPA deleted OU2 in the April 2002 partial NPL delisting.

Operable Unit 3

Remedial action construction activities were performed according to approved design and specifications at Michigan Smelter Tailings. The 1992 ROD for OU1and OU3 designated some exceptions to the soil cover for the Isle Royale Tailings area. Theses exceptions included portions that were being developed or used for other purposes. Areas that were covered continued the same soil and seed mix as used in OU1. In 2004, EPA completed the remedy at the Isle Royale Tailings by placing a 6-inch vegetative cover over area stamp sands and placing rip-rap along the shoreline of the area. The change to include rip-rap was documented in a Memo to the File dated July 7, 2004.

Institutional Controls

In 1994, EPA issued an Administrative Order on Consent (AOC)

to all affected landowners requiring them, within six months of the AOC, to implement the appropriate deed restriction on their property. The deed restrictions run with the land and bind future owners to the restrictions. The institutional controls serve to protect vegetative cover and thus prevent residual mining contamination from entering surface water by ensuring that no disturbance of vegetative cover occurs; or if disturbance occurs, the owner is required to replace soil and repair vegetative cover. There are Restrictive Covenants on approximately half of the properties at the Site, which include the Michigan Smelter Tailings property. The Declaration of Restrictive Covenants for Isle Royale Tailings was signed on October 14, 2008. The following restriction applies; ''If during the process of any development, building, construction, or other activity on the property by or with consent from the owner of the property, the cover is disturbed so that upon completion of the development, construction, building or other activity stamp sand is exposed, then the owner of the property shall cover the exposed stamp sand and shall re-vegetate the re-covered area''.

Cleanup Goals

The objectives of the remedies were to control exposures to Site contaminants and control erosion of stamp sands, tailings and slag to the surface water and sediments by covering them with vegetation. The remedial actions at Isle Royale Tailings, Michigan Smelter Tailings, and Mason Sands Tailings are operational and functional. The remedial actions are functioning properly and performing as designed.

Operation and Maintenance (O&M)

EPA conducted activities necessary to ensure that the implemented remedy at Isle Royale Tailings, Michigan Smelter Tailings, and Mason Sands was operational and functional for a period up to three years after remedial construction at the last parcel. The remedy was jointly determined by EPA and MDEQ to be functioning properly and performing as designed in September 2008. EPA conducted annual observations of the remediated areas for three years after construction, and conducted major repairs as necessary, on each area where the remedy was implemented.

In 2002, EPA conducted a study of terrestrial environments at the Site to characterize and document the ecological conditions of the tailing areas before and after implementation of the remedy. The results of the study were presented in the *Torch Lake Stamp Sand Evaluation Report* dated March 2003. The report indicated a significant environmental improvement. The soil and vegetative cover has resulted in the development of a soil stabilizing plant community and habitat which has attracted birds and mammals.

In 1999 and 2000, as part of long-term monitoring, EPA conducted environmental sampling as a way to establish the environmental baseline conditions of Torch Lake. The results of the sampling efforts are presented in the *Baseline Study Report* dated August 2001. Future long-term monitoring events will be conducted by MDEQ and the results compared to the 2001 baseline study to identify changes and/or establish trends in lake conditions. MDEQ has had the lead for OU2 monitoring since 2002, when OU2 was deleted from the NPL.

In 2004, MDEQ conducted sampling activities for monitoring of Torch Lake. The monitoring was undertaken to document and measure the status of natural recovery of the Lake following remedial actions. The 2004 sampling work included assessing the benthic community populations, measuring sediment toxicity to benthic invertebrates, measuring concentrations of metals and semi-volatile organic compounds in sediment and groundwater, and studying the sedimentation process in lake sediments. The 2004 MDEQ long-term monitoring data includes reports with information relevant to sedimentation rates and sediment toxicity.

MDEQ will be conducting O&M of the shoreline protection and cover material. In accordance with the September 1998 Superfund Site Contract (SSC) signed by EPA and MDEQ, O&M was to begin three years after the remedy implementation or when the remedy was jointly determined by EPA and MDEQ to be functioning properly as designed, whichever is earlier. This milestone was reached in September 2008 for Isle Royale Tailings, Michigan Smelter Tailings, and Mason Sands Tailings; along with several other Torch Lake property parcels.

Five-Year Review (FYR)

EPA conducted FYRs of the Site in 2003 and 2008. In the reviews, EPA concluded that all remedial actions are complete. The 2008 FYR noted that the Isle Royale, Michigan Smelter Tailings and Mason Sands remedies are protective of human health and the environment in the short-term. The 2008 FYR calls for continued documentation from landowners at the Site to verify proper deed restrictions are in place. The next FYR will be conducted in 2013.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the Partial Deletion of this Site from the NPL, are available to the public in the information repositories, and at *www.regulations.gov.* Documents in the docket include maps which identify the specific parcels of land that are proposed in this Notice (Isle-Royale Tailings, Michigan Smelter Tailings, and Mason Sands). Additional community outreach will be conducted to ensure the transparency of the deletion process; to increase awareness of potential non-Site related environmental issues near the deleted parcels; and to help the community understand exactly where the deleted portions of the Torch Lake Site are located.

Determination That the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that portions of a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Michigan, has determined that no further action is appropriate.

V. Deletion Action

The EPA, with concurrence of the State of Michigan, through MDEQ, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews, have been completed. Therefore, EPA is deleting the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3 and the Mason Sands Tailings parcel of OU1 of the Torch Lake Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective *December 24, 2012* unless EPA receives adverse comments by *November 23, 2012.* If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA may prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments

already received. In such case, there will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 19, 2012.

Susan Hedman,

Regional Administrator, U.S. EPA, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. In table 1 of Appendix B to part 300, under Michigan ''MI'', the entry for ''Torch Lake'', ''Houghton County, Michigan'' is revised to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	(Notes) [a]
*	*	*	*
MI	Torch Lake	Houghton	P
*	*	*	*

(a) A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be >28.50).

* * * * * * *

P = Sites with partial deletion(s).

[FR Doc. 2012–25968 Filed 10–22–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, and 495

[CMS–0044–CN2]

RIN–0938–AQ84

Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2; Corrections

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors and typographical errors in the final rule entitled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2'' which appeared in the September 4, 2012 issue of the **Federal Register**.

DATES: *Effective Date:* This document is effective on November 12, 2012, except that the correction to instruction 8.NN (77 FR 54149) is effective October 23, 2012.

FOR FURTHER INFORMATION CONTACT: Travis Broome, (214) 767–4450.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–21050 of September 4, 2012 (77 FR 53968), the final rule entitled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2'' there were a number of technical errors and typographical errors that are identified in the Summary of Errors section and corrected in the Correction of Errors section.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 54041 in our response to a public comment regarding the meaningful use objective ''provide structured electronic lab results to eligible professionals,'' we inadvertently did not replace a placeholder ''ONC reference once available'' with the reference when it became available.

On page 54051, in our discussion of the submission period for electronic submissions, we inadvertently omitted references to the applicable provider or supplier (that is, eligible professional (EP), eligible hospital, and critical access hospital) that has to meet the calendar year or fiscal year submission period requirements. Also on this page in the footnote following Table 5, we made errors in our description of the providers and suppliers that are in the first year of demonstrating meaningful use for purposes of avoiding a payment adjustment.

On page 54052 in our response to public comments regarding the transition to electronic health record (EHR) technology certified to the 2014 Edition EHR certification criteria, we inadvertently omitted certain CQMs that we included in the Stage 1 final rule but are not finalizing in the Stage 2 final rule for reporting beginning in CY 2014 after consideration of the public comments. Also on this page, in another response to public comments regarding 2011 Edition of EHR certification criteria, we made a grammatical error.

On page 54053, we inadvertently omitted certain CQMs that would be excluded from an EP's option of reporting in the Stage 1 final rule.

On pages 54044, 54055, 54056, 54058, 54068, 54079, 54081, and 54120, we made inadvertent errors in the numbering and referencing of several tables.

On page 54056, we made inadvertent errors in specifying the providers and suppliers that would receive the annual fiscal or calendar year updates to the clinical quality measure (CQM) specifications.

On pages 54069, 54072, and 54073, in Table 8—CQMs Finalized for Medicare and Medicaid EPs Beginning with CY 2014, we made several typographical and technical errors in the titles/descriptions of several CQMs. We also made typographical errors in referencing the footnotes for CQM 0418.

B. Summary of Errors in the Regulations Text

On page 54149, we made a technical error in an amendatory statement (NN)

for § 495.6. In the amendatory statement, we erroneously stated that we were adding paragraphs (f)(1)(ii)(B) and (C) instead of stating that we were adding paragraph (f)(1)(ii)(B).

On pages 54155 and 54157, we made technical errors by omitting qualifying language in § 495.6(l)(6)(ii) and § 495.6(m)(4)(ii).

On page 54153 (in § 495.6(j)(14)(ii)(C)(*1*)), we made a typographical error in the regulatory citation.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rulemaking that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical and typographical errors in the preamble and regulations text of the September 4, 2012 final rule and does not make substantive changes to the policies that were adopted. As a result, this correcting document is intended to ensure that the final rule accurately reflects the policies adopted in that rule.

In addition, even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2012–21050 of September 4, 2012 (77 FR 53968), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 54041, second column, third paragraph, line 17, the phrase ''criteria at (ONC reference once available)'' is corrected to read ''criteria at 45 CFR 170.314(b)(6)''.

2. On page 54044, lower half of the page, in the table heading for Table B5—Stage 2 Objectives and Measures, the table number ''Table B5'' is corrected to read ''Table 4A''.

3. On page 54051—

a. Top quarter of the page, second column, first full paragraph, line 4, the phrase ''CY or FY respectively.'' is corrected to read ''CY or FY for EPs, eligible hospitals, and CAHs, respectively.''.

b. Second quarter of the page, in Table 5 Reporting and Submission Periods for EPs, Eligible Hospitals and CAHs in Their First Year of Meaningful Use Submitting CQMs Via Attestation Beginning With CY/FY 2014, the footnote following the table, line 1, the phrase ''Medicare EPs and eligible hospitals'' is corrected to read ''EPs, eligible hospitals, and CAHs in the Medicare EHR Incentive Program''.

4. On page 54052, third column—

a. First partial paragraph, line 1, the phrase ''0013, 0027, 0084).'' is corrected to read ''0013, 0027, 0084) as well as 9 CQMs that we included in the Stage 1 final rule but are not finalizing in this Stage 2 final rule for reporting beginning in CY 2014 (NQF 0001, 0012, 0014, 0047, 0061, 0067, 0073, 0074, 0575)).''.

b. Last paragraph, lines 2 and 3, the phrase ''EHR technology should based'' is corrected to read ''EHR technology should be based''.

5. On page 54053, first column, last bulleted paragraph, line 9, the phrase ''reporting NQF 0013, 0027, 0084'' is corrected to read ''reporting NQF 0013, 0027, 0084, 0001, 0012, 0014, 0047, 0061, 0067, 0073, 0074, 0575''.

6. On page 54055, first column, first full paragraph, lines 22 and 23, the phrase ''MAP in Tables 7 (EPs) and 8 (eligible hospitals and CAHs)'' is corrected to read ''MAP in Tables 8 (EPs) (77 FR 13749 through 13757 and 9 (eligible hospitals and CAHs) (77 FR 13760 through 13763)''.

7. On page 54056, second column, fourth full paragraph—

a. Line 7, the phrase ''FY/CY for hospitals and EPs respectively.'' is corrected to read ''FY and CY for eligible hospitals and CAHs, and EPs, respectively.''.

b. Line 29, the reference ''Table 7'' is corrected to read ''Table 8''.

c. Line 32, the reference ''Table 8'' is corrected to read ''Table 10''.

8. On page 54058—

a. Second column, fourth full paragraph, line 4, the reference ''Table 7'' is corrected to read ''Table 8''.

b. Third column, first partial paragraph, line 2, the reference ''Table 7'' is corrected to read ''Table 8''.

9. On page 54068,

a. First column, first full paragraph—

(1) Line 5, the reference ''Table 7'' is corrected to read ''Table 8''.

(2) Line 7, the reference ''Table 7'' is corrected to read ''Table 8 ''.

(b) First column, second full paragraph, line 3, ''Table 7'' is corrected to read ''Table 8''.

c. Third column, first full paragraph, line 3, the reference ''Table 7'' is corrected to read ''Table 8''.

10. On pages 54069 through 54075, in Table 8—CQMs Finalized for Medicare and Medicaid EPs Beginning with CY 2014, we make the following corrections:

a. Column 2 (CQM title and description) is corrected for the following entries:

CQM No.	CQM title & description	Measure steward & contact information	Other quality measure programs that use the same CQM***	New CQM	Domain
NQF 0018*	Title: Controlling High Blood Pressure. Description: Percentage of patients 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled (<140/90mmHg) during the measurement period.	NCQA Contact Information: *www.ncqa.org.*	EHR PQRS, ACO, Group Reporting PQRS, UDS.		Clinical Process/Effectiveness.
NQF 0385	Title: Colon Cancer: Chemotherapy for AJCC Stage III Colon Cancer Patients. Description: Percentage of patients aged 18 through 80 years with AJCC Stage III colon cancer who are referred for adjuvant chemotherapy, prescribed adjuvant chemotherapy, or have previously received adjuvant chemotherapy within the 12-month reporting period.	AMA–PCPI Contact Information: *cpe@ama-assn.org;* American Society of Clinical Oncology (ASCO): *www.asco.org;* National Comprehensive Cancer Network (NCCN): *www.nccn.org.*	EHR PQRS		Clinical Process/Effectiveness.
NQF 0403	Title: HIV/AIDS: Medical Visit Description: Percentage of patients, regardless of age, with a diagnosis of HIV/AIDS with at least two medical visits during the measurement year with a minimum of 90 days between each visit.	AMA–PCPI Contact Information: *cpe@ama-assn.org;* NCQA Contact Information: *www.ncqa.org.*		New	Clinical Process/Effectiveness.
TBD (proposed as NQF 0407).	Title: HIV/AIDS: RNA control for Patients with HIV. Description: Percentage of patients aged 13 years and older with a diagnosis of HIV/AIDS, with at least two visits during the measurement year, with at least 90 days between each visit, whose most recent HIV RNA level is <200 copies/mL.	NCQA Contact Information: *www.ncqa.org.*	PQRS	New	Clinical Process/Effectiveness.
NQF 0421*	Title: Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up. Description: Percentage of patients aged 18 years and older with an encounter during the reporting period with a documented calculated BMI during the encounter or during the previous six months AND when the BMI is outside of normal parameters, follow-up plan is documented during the encounter or during the previous 6 months of the encounter with the BMI outside of normal parameters. Normal Parameters: Age 65 years and older BMI ≥ 23 and < 30. Age 18-64 years BMI ≥ 18.5 and < 25.	Centers for Medicare and Medicaid Services (CMS), 1–888–734–6433 or *http://questions.cms.hhs.gov/app/ask/p/21,26,1139;* QIP Contact Information: *www.usqualitymeasures.org.*	EHR PQRS, ACO, Group Reporting PQRS, UDS.		Population/Public Health.

b. Column 1 (CQM number) is corrected for the following entry:

CQM No.	CQM title & description	Measure steward & contact information	Other quality measure programs that use the same CQM***	New CQM	Domain
NQF 0418* and **	Title: Preventive Care and Screening: Screening for Clinical Depression and Follow-Up Plan. Description: Percentage of patients aged 12 years and older screened for clinical depression on the date of the encounter using an age appropriate standardized depression screening tool AND if positive, a follow-up plan is documented on the date of the positive screen.	Centers for Medicare and Medicaid Services (CMS), 1–888–734–6433 or *http://questions.cms.hhs.gov/app/ask/p/21,26,1139;* Quality Insights of Pennsylvania (QIP) Contact Information: *www.usqualitymeasures.org*.	EHR PQRS, ACO, Group Reporting PQRS.	New	Population/Public Health.

11. On page 54079, in the third column, second full paragraph—

a. Line 3, the reference ''Table 8'' is corrected to read ''Table 10''.

b. Line 24, the reference ''Table 8''is corrected to read ''Table 10''.

12. On page 54081, first column, second full paragraph, line 2, the reference ''Table 8'' is corrected to read ''Table 10''.

13. On page 54120, middle of the page, in the table heading Table E1—Determination of Net Average Allowable Costs for the First Payment Year, the table number ''Table E1'' is corrected to read ''Table 19A''.

B. Correction of Errors in the Regulations Text

§ 495.6 [Corrected]

1. On page 54149, third column, lines 60 and 61, the sentence ''NN. Adding paragraphs (f)(1)(ii)(B) and (C).'' is corrected to read ''NN. Adding paragraph (f)(1)(ii)(B).''

2. On page 54153, third column, fourth full paragraph (§ 495.6(j)(14)(ii)(C)(*1*)), line 10, the reference ''CFR 107.314(b)(2)'' is corrected to read ''CFR 170.314(b)(2)''.

3. On page 54155, second column, 14th paragraph (§ 495.6(l)(6)(ii)), line 1, the phrase ''More than 55 percent of'' is corrected to read ''Subject to paragraph (c) of this section, more than 55 percent of''.

3. On page 54157, first column, seventh paragraph (§ 495.6(m)(4)(ii)), line 1, the phrase ''More than 10 percent of'' is corrected to read ''Subject to paragraph (c) of this section, more than 10 percent of''.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 16, 2012.

Oliver Potts,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2012–25975 Filed 10–22–12; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 11–05]

RIN 3072–AC43

Amendments to Commission's Rules of Practice and Procedure—Subparts E and L; Correction

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission (Commission) is correcting a final rule that appeared in the **Federal Register** of October 10, 2012 (77 FR 61519). The final rule revises the Commission's rules of practice and procedure to update and clarify the rules and to reduce the burden on parties to proceedings before the Commission. This document corrects errors in the final rule.

DATES: *Effective:* November 12, 2012.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5725, Email: *secretary@fmc.gov*.

SUPPLEMENTARY INFORMATION: In the final rule for the Commission's Rules of Practice and Procedure (Commission Docket No. 11–05) appearing on page 61519 in the **Federal Register** of Wednesday, October 10, 2012, the following corrections are made:

§ 502.62 [Corrected]

1. On page 61524, in the third column, in § 502.62(a)(3)(iii), remove ''; and'' at the end of the paragraph and add in its place '', and a statement showing that the complainant is entitled to relief;''

2. In paragraph (a)(3)(iv), remove a period at the end of the paragraph and add in its place ''; and''

3. On page 61525, in the first column, in paragraph (b)(2)(iii), remove '', and a statement showing that the complainant is entitled to relief;'' at the end of the paragraph and add in its place ''; and''

4. In paragraph (b)(2)(iv), remove ''; and'' at the end of the paragraph and add in its place a period.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–26007 Filed 10–22–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–177; RM–11665; DA 12–1554]

Radio Broadcasting Services; Randsburg, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Sound Enterprises, substitutes Channel 275A for vacant Channel 271A at Randsburg, California to accommodate the hybrid contingent application for Station KSSI (FM), requesting to upgrade the facilities of the FM station from Channel 274A to Channel 271B1 at China Lake, California. A staff engineering analysis determines that Channel 275A can be allotted to Randsburg consistent with the minimum distance separation requirements of the Rules with a site restriction 0.04 kilometers (0.03 miles) southeast of the community. The reference coordinates for Channel 275A at Randsburg are 35–22–06 NL and 117–39–25 WL.

DATES: Effective November 12, 2012.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* adopted September 27, 2012, and released September 28, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 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 amends 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 California, is amended by removing Channel 271A at Randsburg, and by adding Channel 275A at Randsburg.

[FR Doc. 2012–25941 Filed 10–22–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

[Docket No. FMCSA–2012–0262]

RIN 2126–AB55

Rescission of 10-Day Agency Discretionary Period in Assigning Unsatisfactory Safety Ratings

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA amends the Federal Motor Carrier Safety Regulations to remove the provision indicating that the Agency will consider a 10-day extension of the 45-day period after which passenger and hazardous materials carriers must cease operation after receiving a proposed unsatisfactory safety rating. The Agency previously discontinued this practice as a matter of policy and now amends the regulation to be consistent with the policy and the statutory language concerning this matter. Although FMCSA will continue to review requests for upgrades of proposed unsatisfactory safety rating for such carriers, the Agency will no longer grant extensions to the 45-day period.

DATES: Effective November 23, 2012.

ADDRESSES: For access to the docket to read background documents, including those referenced in this document, go to: Regulations.gov, *http://www.regulations.gov,* at any time and insert FMCSA–2012–0262 in the ''Keyword'' box, and then click ''Search.'' Docket Management Facility, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC 20590. You may view the docket online by visiting the facility between 9 a.m. and 5 p.m. e.t., Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Mancl, Enforcement Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 493–0442.

SUPPLEMENTARY INFORMATION:

Background Information and Discussion of This Final Rule

Background Information

Statutory History

The Motor Carrier Safety Act of 1990 (1990 Act) (section 15 of the Sanitary Food Transportation Act of 1990, Pub. L. 101–500, 104 Stat. 1218) amended the Hazardous Materials Transportation Act to prohibit motor carriers that receive unsatisfactory safety ratings from operating CMVs, as defined in section 204(1) of the Motor Carrier Safety Act of 1984, to transport (1) quantities of hazardous materials for which vehicle placarding is required. Because of subsequent amendments to section 204(1)—codified at 49 U.S.C. 31132(1)—the prohibition also applies to CMVs transporting (2) 9–15 passengers, including the driver, for direct compensation, and (3) more than 15 passengers, including the driver, but not for direct compensation. The 1990 Act established a period of 45 days during which these motor carriers could take necessary corrective action to improve their safety rating to conditional or satisfactory. The statute required the FHWA (FMCSA's predecessor agency) to review a motor carrier's corrective actions within 30 days after the date of a safety rating upgrade request.

Section 4009 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998), revised 49 U.S.C. 31144 to apply to all owners and operators of CMVs, not just those transporting passengers or hazardous materials in quantities requiring placarding. It expressly authorized the Agency to allow owners and operators not transporting passengers or hazardous materials in quantities requiring placarding up to an additional 60 days to continue to operate if they were making a good faith effort to become fit.

Current Regulations

The Agency's regulations in 49 CFR 385.17 outline the procedures that FMCSA and affected motor carriers [1] must follow to upgrade a safety rating based on corrective action. A motor carrier transporting passengers or

[1] Although 49 U.S.C. 31144 uses the term ''owner or operator,'' Agency regulations implementing the statute use the term ''motor carrier.''

hazardous materials in quantities requiring placarding may request an upgrade of a proposed or final conditional or unsatisfactory safety rating at any time based on corrective action it has taken. If the Agency proposes an unsatisfactory safety rating, the 45-day period in which the motor carrier must make improvements begins on the day written notice of the proposed rating is given by FMCSA. If the corrective action is determined to be insufficient, the proposed unsatisfactory rating becomes effective and the motor carrier must cease transportation of passengers or hazardous materials in quantities requiring placarding immediately, which would be the 46th day from the date of written notice of the proposed unsatisfactory rating. FMCSA makes its determination expeditiously because a final unsatisfactory safety rating will preclude any further operation of CMVs by the motor carrier. If the motor carrier has submitted evidence that corrective action has been taken and FMCSA is unable to make its determination within the 45-day review period, the current provisions of 49 CFR 385.17(f) indicates the Agency may extend the 45-day review period by up to 10 additional days.

This provision allowing an extension of the effective date in order for the Agency to review a motor carrier's corrective action has been part of the regulations since 1991.[2] Current Agency policy [3], however, does not allow for extensions of the effective date of a proposed unsatisfactory safety rating for motor carriers transporting passengers or hazardous materials in quantities requiring placarding.

Legal Basis for Rulemaking

The legal basis for this final rule is found in 49 U.S.C. 31144(b) and (c). The statute directs the Secretary to maintain by regulation a procedure for determining the safety fitness of an owner or operator of a commercial motor vehicle (CMV). Section 31144(b)(3) requires the regulations to include specific time frames for such determinations. Section 31144(c)(1) requires that an owner or operator determined to be unfit is generally prohibited from operating CMVs, as defined in 49 U.S.C. 31132, in interstate commerce on the 61st day after the determination. Under sections 31144(c)(2) and (c)(3), however, owners or operators transporting either passengers or hazardous materials in quantities requiring placarding on the vehicle are prohibited from operating CMVs, as defined in 49 U.S.C. 31132,[4] in interstate commerce on the 46th day after the determination of unfitness is made.

Section 31144(c)(4) gives the Secretary the discretion to allow an owner or operator to operate for an additional 60 days after the 61st day following the fitness determination ''if the Secretary determines that such owner or operator is making a good faith effort to become fit.'' But this provision specifically excludes from this discretionary authority owners or operators transporting either passengers or hazardous materials in quantities requiring placarding. Therefore, such owners or operators are not allowed an additional period of operation following the 45th day after the unfitness determination is made. Authority to carry out these provisions has been delegated by the Secretary to the Administrator of FMCSA under 49 CFR 1.87(f).

Administrative Procedure Act

Although the Administrative Procedure Act (APA) generally allows agencies to promulgate final rules only after notice of proposed rulemaking and an opportunity for public comment, agencies need not do so when notice and comment would be ''unnecessary'' under the good cause exception, 5 U.S.C. 553(b)(3)(B). FMCSA finds that notice and comment are unnecessary in this case, and not otherwise required by law, because the Agency is performing a nondiscretionary administrative act to conform its regulations to 49 U.S.C. 31144.

Discussion of This Final Rule

The purpose of this final rule is to bring 49 CFR 385.17(f) into conformity with § 31144(c)(4) by removing the provision allowing a 10-day extension of the effective date of a proposed unsatisfactory rating for motor carriers transporting passengers or hazardous materials in quantities requiring placarding. No change is being made to 49 CFR 385.17(g) which allows, in accordance with 49 U.S.C. 31144(c)(4), for motor carriers not transporting passengers or hazardous materials in quantities requiring placarding to continue to operate for up to an additional 60 days at the Agency's discretion. FMCSA has updated the terminology used for motor carriers transporting hazardous materials to be consistent with terminology used elsewhere in this part.

If the Agency issues a proposed unsatisfactory safety fitness rating, the carrier should submit its evidence of corrective actions within 15 days thereafter in order to ensure adequate time for review. Otherwise, the motor carrier risks a final safety fitness rating of ''unsatisfactory'' or ''unfit'' and being placed out of service. FMCSA acknowledges that some motor carriers in this category have waited until late into the corrective action period provided by 49 CFR 385.17 to submit evidence of corrective action, leaving Agency officials little or no time for review. However, § 385.17 indicates the Agency will complete its review within 30 days of the carrier's submission of a request for a change in the safety fitness rating. In order to allow 30 days for the Agency to complete its review within the 45-day, non-extendable window from the issuance of the proposed unfit rating, the carrier must submit evidence demonstrating corrective action within 15 days.

Providing FMCSA receives evidence of corrective action within 15 days of the date of the proposed safety fitness rating, Agency officials will review and make a decision on whether it is acceptable before the end of the 45-day period. Should evidence of corrective action be received more than 15 days after the date of the proposed unsatisfactory safety fitness rating, the Agency will not guarantee that the evidence will be considered prior to the end of the 45-day, non-extendable window. If the corrective action period expires before the Agency makes a determination, the proposed rating will become the final rating and the carrier will be prohibited from operating commercial motor vehicles. This policy is consistent with the Agency's August 16, 2012, notice concerning the timely submission of corrective action plans by new entrant carriers (77 FR 49384). If the FMCSA subsequently determines that the corrective action plan is acceptable, the carrier may be reinstated consistent with the Agency's fit, willing, and able policy published on August 2, 2012 (77 FR 46147).

[2] See Safety Fitness procedures; Safety Ratings, 56 FR 40801, 40802, 40806 (Aug. 18, 1991) (FHWA final rule).

[3] *http://www.ntsb.gov/doclib/reports/2012/HAR1202.pdf,* cited in Highway Accident report HAR–12/02, footnote 48, page 27, published July 21, 2012.

[4] Under 49 CFR 390.3(f)(6), operators of CMVs designed or used to transport between 9–15 passengers, not for direct compensation, are not subject to the safety rating process.

Statutory and Regulatory Reviews.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has determined that this action does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866, as supplemented by Executive Order 13563, or within the meaning of the Department of Transportation regulatory policies and procedures (44 FR 11034, Feb. 26, 1979). As explained above, this final rule is strictly ministerial in that it incorporates a nondiscretionary statutory requirement and includes administrative and technical corrections. These changes are necessary to make FMCSA's regulations consistent with 49 U.S.C. 31144.

Under 49 CFR 385.17(f), the decision of whether to grant a carrier an extension of the date on which a proposed unsatisfactory rating becomes final has always been at the Agency's discretion. The Agency can deny requests for extensions. The Agency's current policy is to deny an extension to any motor carrier transporting passengers or hazardous materials in quantities requiring placarding; thus, no such extensions are currently being granted. As a result, incorporating this policy into the Agency's regulations would have no practical effect on the industry.

The only potential impact of this regulatory change would be to eliminate the provision that would allow motor carriers transporting either passengers or hazardous materials in quantities requiring placarding to continue operating for an additional 10 days pending a final determination of their safety fitness. However, current Agency policy is to deny these extensions. The rule would have no economic impact on the motor carrier industry, or significant safety impacts. Therefore, a full regulatory impact analysis has not been conducted, nor has there been a review by the Office of Information and Regulatory Affairs under this executive order.

Regulatory Flexibility Act

FMCSA is not required to prepare a regulatory flexibility analysis for this final rule under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601, *et seq.,* because the Agency has not issued a Notice of Proposed Rulemaking prior to this action and, therefore, is not required in that case to prepare such an analysis, 5 U.S.C. 604(a). This final rule also complies with the President's memorandum of January 18, 2011, entitled *Regulatory Flexibility, Small Business, and Job Creation* (76 FR 3827). As addressed above, promulgation of this final rule is strictly ministerial in that it incorporates in FMCSA regulations a nondiscretionary statutory requirement currently in place and includes administrative and technical corrections.

Unfunded Mandates Reform Act of 1995

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 this Act addresses actions that may result in the expenditure by a State, local, or tribal governments, in the aggregate, or by the private sector of $143.1 million (which is the calendar year 2010 value used in lieu of the $100 million threshold included in the 1995 statute, after adjusting for inflation) or more in any one year. This final rule will not result in such an expenditure.

Paperwork Reduction Act

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this final rule for the purpose 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 does not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(u) of Appendix 2. This categorical exclusion covers regulations affecting the process for issuing orders to comply with the regulations or issuing a civil penalty. A Categorical Exclusion determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES.**

FMCSA also analyzed this action under section 176(c) of the Clean Air Act (CAA), as amended (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 would result in no emissions increase or an increase in emissions that is clearly de minimis.

Executive Order 12372 (Intergovernmental Review of Federal Programs)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Executive Order 12630 (Constitutionally Protected Property Rights)

This final rule does not effect a taking of private property or otherwise have implications under Executive Order 12630.

Executive Order 12898 (Environmental Justice)

This final rule raises no environmental justice issues nor is there any collective environmental impact resulting from its promulgation.

Executive Order 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

This final rule does not pose an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13132 (Federalism)

A rulemaking 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 State or local governments. FMCSA analyzed this action in accordance with Executive Order 13132. This final rule does 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 Executive Order 13132.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA

determined that it is not a ''significant energy action'' under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 385

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping.

For the reasons discussed in the preamble, FMCSA amends 49 CFR part 385 as set forth below:

PART 385—SAFETY FITNESS PROCEDURES

■ 1. 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, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350 of Pub. L. 107–87; and 49 CFR 1.87.

■ 2. Revise § 385.17(f) to read as follows:

§ 385.17 Change to safety rating based upon corrective actions.

* * * * *

(f) The filing of a request for change to a proposed or final safety rating under this section does not stay the 45-day period specified in § 385.13(a)(1) for motor carriers transporting passengers or hazardous materials in quantities requiring placarding.

* * * * *

Issued on: October 15, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–26044 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XC271

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2012 total allowable catch of pollock for Statistical Area 630 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 20, 2012, through 2400 hrs, A.l.t., December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The 2012 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 26,348 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2012 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 26,298 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 17, 2012.

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

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

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

Dated: October 18, 2012.

James P. Burgess,

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

[FR Doc. 2012–26092 Filed 10–18–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 205
Tuesday, October 23, 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–2012–1134; Directorate Identifier 2012–CE–034–AD]

RIN 2120–AA64

Airworthiness Directives; Lindstrand Hot Air Balloons Ltd Appliances

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers HS6139 and HS6144, installed on balloons. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient tightness of the threaded hose connector in the assembly area that could result in fuel leakage. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 7, 2012.

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

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

For service information identified in this proposed AD, contact Lindstrand Hot Air Balloons Ltd., Maesbury Road, Oswestry, Shropshire SY10 8ZZ, The United Kingdom; telephone: +44 (0) 1691–671717; fax: +44 (0) 1691–671122; email: *simon@lindstrand.co.uk;* Internet: *http://www.lindstrand.co.uk/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket 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: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1134; Directorate Identifier 2012–CE–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2012–0142R1, dated September 14, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Three incidents were reported where the female ACME threaded connectors (Rego type) was leaking when connected to the gas cylinder with the cylinder valve turned on.
>
> The results of the technical investigations revealed the possibility that other similar connectors produced between 01 January 2011 and 01 September 2011 might not have been assembled with sufficient tightness. A list of potentially affected connectors has been drawn up Table 1 of this AD. A list of burners and manifolds on which it is already known that an affected connector has been installed is provided in Table 2 of this AD.
>
> This condition, if not detected and corrected, could result, in case of an ignition source, in a fire hazard that could damage the balloon and its envelope, ultimately leading to a forced emergency landing, during which balloon occupants and persons on the ground could be injured.
>
> To address this potential unsafe condition, Lindstrand Hot Air Balloons Ltd. (who manufactured the hose assemblies) issued Service Bulletin (SB) N°12, which, for the affected parts, requires accomplishment of an inspection of the female ACME thread hose connectors.
>
> For the reasons described above, EASA issued AD 2012–0142, to require an inspection of the female ACME thread hose connectors for leakage, and, depending on findings, to re-torque the connectors using correct values.
>
> Since that AD was issued, it has been determined that the pilot-owner of the balloon can accomplish the inspection of the affected parts to identify the leak. In addition, the risk assessment has been reconsidered, which has led to the conclusion that the compliance time for the inspection can be extended to 60 days after the effective date of the date at original issue. Similarly, as most of the parts have now been inspected and, depending on findings, corrected, it was possible to delete paragraph (3) from the AD, dealing with spare parts.

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

Although the European Aviation Safety Agency (EASA) MCAI allows the pilot-owner to do the inspection and

correction required in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, the U.S. regulatory system requires all actions of this AD be done by a certified mechanic.

Relevant Service Information

Lindstrand Hot Air Balloons Ltd has issued Service Bulletin No. 12, Issue 2, dated May 10, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 2,170 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $42.50 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $92,225, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about .5 work-hour. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Lindstrand Hot Air Balloons LTD: Docket No. FAA–2012–1134; Directorate Identifier 2012–CE–034–AD.

(a) Comments Due Date

We must receive comments by December 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all hot air balloons, certificated in any category, equipped with Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers (P/Ns) HS6139 and HS6144, all serial numbers.

(d) Subject

Air Transport Association of America (ATA) Code 14: Hardware.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient tightness of the threaded hose connector in the assembly area that could result in fuel leakage. We are issuing this AD to detect and correct insufficient tightness of the threaded hose connector in the assembly area. This condition, if not corrected, could result in fuel leakage and lead to an inflight fire.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 60 days after the effective date of this AD, inspect the female ACME threaded hose connectors, (P/Ns) HS6139 and HS6144, for leaking in accordance with the instructions of Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, dated May 10, 2012.

(2) If fuel leakage is detected in the inspection required in paragraph (f)(1) of this AD, before further flight, tighten the threaded hose connector to the correct torque following Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, dated May 10, 2012.

(3) If, after the effective date of this AD, you install on any balloon an ACME threaded hose connector, (P/Ns) HS6139 or HS6144, manufactured by Lindstrand Hot Air Balloons Ltd. and supplied as a spare part between January 1, 2011, and September 1, 2011, before further flight, you must comply with the actions of this AD.

(4) Although the European Aviation Safety Agency (EASA) MCAI allows the pilot-owner to do the inspection and correction required in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, the U.S. regulatory system requires all actions of this AD be done by a certified mechanic.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of

Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency AD 12–053, dated May 25, 2012; and Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, dated May 10, 2012, for related information. For service information related to this AD, contact Lindstrand Hot Air Balloons Ltd., Maesbury Road, Oswestry, Shropshire SY10 8ZZ, The United Kingdom; telephone: +44 (0) 1691–671717; fax: +44 (0) 1691–671122; email: *simon@lindstrand.co.uk;* Internet: *http://www.lindstrand.co.uk/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on October 17, 2012.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26064 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1105; Directorate Identifier 2012–NM–137–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318, A319, and A320 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer, which revealed that certain fuel pumps under certain conditions can create an ignition source in the fuel tank. This proposed AD would require modification of the center tank fuel pump control circuit by installation of ground fault interrupters (GFIs). This proposed AD would also require either replacement of the GFI or deactivation of the associated fuel pump following failure of any post-modification operational test of the GFI. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by December 7, 2012.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1105; Directorate Identifier 2012–NM–137–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Airworthiness Directive 2012–0198, dated September 26, 2012 (which superseded EASA AD 2012–0133, dated July 18, 2012) (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

* * * The FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.

In the framework of these requirements, EASA have determined that the electrical power supply circuits of certain fuel pumps, installed on A320 family aeroplanes, for which the canisters become uncovered during normal operation, could, under certain conditions, create an ignition source in the tank vapour space.

This condition, if not corrected, could result in a fuel tank explosion and consequent loss of the aeroplane.

To address this potential unsafe condition, Airbus developed a modification which includes installing Ground Fault Interrupters (GFI) into the centre tank fuel pump control circuit, providing additional system protection by electrically isolating the pump in case of a ground fault condition downstream of the GFI.

Consequently, EASA issued AD 2012–0133 to require modification of the centre tank fuel

pump control circuit by installing GFI and thereafter, in case a GFI failed an operational test, replacement of the faulty GFI, or deactivation of the associated fuel pump in accordance with the provisions of the applicable Master Minimum Equipment List (MMEL).

Since that [EASA] AD was issued, it was noted that, inadvertently, the Applicability of the Final AD was incorrect (the preceding PAD [proposed AD] 12–051 was correct) by excluding aeroplanes on which Airbus modification 150736 has been embodied in production. As a result, the required actions when a GFI fails an operational test did not apply to those aeroplanes.

For the reasons described above, this [EASA] AD retains the requirements [modification of the centre tank fuel pump control circuit by installing GFI] of EASA AD 2012–0133, which is superseded, and expands the Applicability to aeroplanes on which Airbus modification 150736 has been embodied in production.

The required actions also include either replacement of the GFI or deactivation of the associated fuel pump following failure of any post-modification operational test of the GFI. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–28–1188, dated March 23, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 755 products of U.S. registry. We also estimate that it would take about 11 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $3,360 per product, depending on configuration. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $3,242,725, or $4,295 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2012–1105; Directorate Identifier 2012–NM–137–AD.

(a) Comments Due Date

We must receive comments by December 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; and Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by fuel system reviews conducted by the manufacturer, which revealed that certain fuel pumps under certain conditions can create an ignition source in the fuel tank. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Except as provided by paragraph (h) of this AD: Within 48 months after the effective date of this AD, modify the center tank fuel pump control circuit by installing ground fault interrupters (GFIs), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–28–1188, dated March 23, 2012.

(h) Airplanes Excluded From Modification Requirement

For airplanes on which Airbus modification 150736 has been embodied in production, and on which no GFI has been removed since first flight, the modification specified in paragraph (g) of this AD is not required.

(i) Corrective Action for Failed Post-modification Operational Test

After accomplishment of the modification specified in paragraph (g) or (h) of this AD, each time a GFI fails an operational test, before further flight, replace the GFI or deactivate the associated fuel pump, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

Note 1 to paragraph (i) of this AD: Guidance on the operational test specified in paragraph (i) of this AD can be found in Task 28.18.00/01, Operational Check of Centre Tank Fuel Pump GFI, of the Airbus A318/A319/A320/A321 Maintenance Review Board Report or Task 281800–710–801, Operational Check of Centre Tank Fuel Pump GFI, of the Airbus A318/A319/A320 Aircraft Maintenance Manual.

Note 2 to paragraph (i) of this AD: Guidance on the fuel pump deactivation specified in paragraph (h) of this AD can be found in Item 28–21–02, Center Tank Systems, of the FAA Master Minimum Equipment List for Airbus A318/A319/A320/A321.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–1405; fax: 425–227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2012–0198, dated September 26, 2012; and Airbus Service Bulletin A320–28–1188, dated March 23, 2012; for related information.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on October 15, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26078 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0495; Directorate Identifier 2011–NM–236–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Galaxy and Gulfstream 200 airplanes. The proposed AD would have required determining the lengths of the wear indicating pins of all brake assemblies, shortening the pin if the wear indicating pin is too long, inspecting for normal brake wear, and replacing brakes with new brakes if necessary. Since the issuance of the NPRM, the FAA has received new data that indicates the actions addressing this unsafe condition have been accomplished on the worldwide fleet. Accordingly, the proposed AD is withdrawn.

ADDRESSES: 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 (telephone 800–647–5527) is the 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: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Galaxy and Gulfstream 200 airplanes. That NPRM was published in the **Federal Register** on May 31, 2012 (77 FR 32069). The NPRM would have required determining the lengths of the wear indicating pins of all brake assemblies, shortening the pin if the wear indicating pin is too long, inspecting for normal brake wear, and replacing brakes with new brakes if necessary. The NPRM resulted from reports of degraded brake performance during landing due to improperly-sized wear indicating pins. The proposed actions were intended to detect and correct improperly-sized wear indicating pins, which, if not corrected, could result in worn-out brake pads and subsequent loss of braking power, which could result in runway overruns.

Actions Since NPRM (77 FR 32069, May 31, 2012) Was Issued

Since we issued the NPRM (77 FR 32069, May 31, 2012), FAA has received new data that indicates the unsafe condition no longer exists. Review of the Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 airplane service history shows that the worldwide fleet is in compliance with the actions specified in Gulfstream Service Bulletin 200–32–389, Revision 1, dated October 27, 2011. Therefore, the unsafe condition no longer exists.

FAA's Conclusions

Upon further consideration, we have determined that the actions specified in Gulfstream Service Bulletin 200–32–389, Revision 1, dated October 27, 2011, and the Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 airplane service history adequately addressed the identified unsafe condition. Therefore, it is not necessary to issue a final rule. Accordingly, the NPRM (77 FR 32069, May 31, 2012) is withdrawn.

Withdrawal of the NPRM (77 FR 32069, May 31, 2012) does not preclude

the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (77 FR 32069, May 31, 2012), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2012–0495, Directorate Identifier 2011–NM–236–AD, which was published in the **Federal Register** on May 31, 2012 (77 FR 32069).

Issued in Renton, Washington, on October 14, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26080 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–140668–07]

RIN 1545–BH16

Regulations Regarding the Application of Section 172(h) Including Consolidated Groups; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–140668–07) that was published in the **Federal Register** on Monday, September 17, 2012 (77 FR 57452). The proposed regulation provides guidance regarding the treatment of corporate equity reduction transactions (CERTs), including the treatment of multiple step plans for the acquisition of stock and CERTs involving members of a consolidated group.

FOR FURTHER INFORMATION CONTACT: Amie Colwell Breslow or Marie C. Milnes-Vasquez at (202) 622–7530 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–140668–07) that is the subject of these corrections are under sections 172 and 1502 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–140668–07) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–140668–07), that was the subject of FR Doc. 2012–22838, is corrected as follows:

1. On page 57452, in the preamble, column 1, under the caption **ADDRESSES**, line 10, the language ''Service, 1111 Constitution Avenue NW.,'' is corrected to read ''Service, 1111 Constitution Avenue NW.,''.

2. On page 57453, in the preamble, column 2, under the caption ''Background'', line 16 from the bottom of the page, the language ''return group; (4) application of these'' is corrected to read ''group; (4) application of these''.

3. On page 57456, in the preamble, column 3, under the paragraph heading *C. Loss Limitation Years*, line 6 from the bottom of the first paragraph, the language ''section 172 and 381 are applied as if the'' is corrected to read ''sections 172 and 381 are applied as if the''.

§ 1.172(h)–2 [Corrected]

4. On Page 57462, column 1, under the paragraph heading *§ 1.172(h)–2 Computation of a CERIL.*, fourth paragraph of the column, line 6, the language ''addition, under the principles of section'' is corrected to read ''addition, under the principles of''.

§ 1.172(h)–4 [Corrected]

5. On Page 57465, column 1, under the paragraph heading *§ 1.172(h)–4 Special rules for predecessors and successors.,* second full paragraph of the column, line 13, the language ''occurred. See §§ 1.172(h)–5(a) (defining'' is corrected to read ''occurred. See § 1.172(h)–5(a) (defining''.

6. On Page 57465, column 3, under the same paragraph heading, line 21 from the top of the column, the language ''interest paid or accrued during the 3 year'' is corrected to read ''interest paid or accrued during the three-year''.

§ 1.1502–72 [Corrected]

7. On page 57471, column 2, under the paragraph heading *§ 1.1502–72 Corporate equity reduction transactions.,* lines 10 and 11 from the top of the column, the language ''[$10,000,000 + $100,000 + 250,000 + 175,000]. See § 1.172(h)–2(b)(3) for rules'' is corrected to read ''[$10,000,000 + $100,000 + $250,000 + $175,000]. See § 1.172(h)–2(b)(3) for rules''.

8. On page 57473, column 1, under the same paragraph heading, line 22 of the second paragraph, the language ''([$1,400 + $1,000 + 1,200]/3). Because T is'' is corrected to read ''([$1,400 + $1,000 + $1,200]/3). Because T is''.

9. On page 57473, column 1, under the same paragraph heading, line 2 from the bottom of the second paragraph, the language ''([$1,400 + $1,000 + 1,200 + $600 + $200 +)'' is corrected to read ''([$1,400 + $1,000 + $1,200 + $600 + $200 +)''.

10. On page 57475, column 3, under the same paragraph heading, line 11 of the second full paragraph of the column, the language ''172(h)(3)(C) § 1.172(h)–1(c)(3) and (f), and'' is corrected to read ''172(h)(3)(C), § 1.172(h)–1(c)(3) and (f), and''.

Guy Traynor,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2012–26001 Filed 10–22–12; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 20

International Mailing Services: Proposed Product and Price Changes

AGENCY: Postal Service,™

ACTION: Proposed rule.

SUMMARY: In October 2012, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective on January 27, 2013. The Postal Service proposes to revise various sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) to reflect new prices and classification changes.

DATES: We must receive your comments on or before November 23, 2012.

ADDRESSES: Mail or deliver comments to the manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW., RM 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday

through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *MailingStandards@usps.gov,* with a subject line of ''International Mailing Services Price Change.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Rick Klutts at 813–877–0372.

SUPPLEMENTARY INFORMATION: Proposed prices are or will be available under Docket Number R2013–1 on the Postal Regulatory Commission's Web site at *www.prc.gov*.

This proposed rule includes price and classification changes for First-Class Mail International® and extra services. The proposed rule also reflects price and classification changes that result from the Postal Regulatory Commission granting the Postal Service's request in Docket No. MC2012–44 to transfer First-Class Mail International packages (small packets) and rolls from the market-dominant product list to the competitive product list.

First-Class Mail International

This proposed rule would increase prices for single-piece First-Class Mail International letters, postcards, and flats by approximately 14.0 percent. Specifically, postcards would be increased by 8.7 percent, letters would be increased by 12.8 percent, and flats would be increased by 18.9 percent. First-Class Mail International packages (small packets) and rolls will be transferred from the market dominant product list to the competitive product list and no longer available effective January 27, 2013. The rebranded competitive product will be identified as—''First-Class Package International Service ™''.

Global Forever Stamp

Building on the success of the domestic USPS Forever® stamp introduced in April, 2007, the Postal Service is proposing to introduce an international Global Forever stamp. Global Forever stamps can be used to mail a 1-ounce letter-size mailpiece anywhere in the world, regardless of when the stamp is purchased and regardless of how prices may change in the future. The Global Forever stamp will ease the transition during price changes, and will always be sold at the price of a single-piece First-Class Mail International 1-ounce machinable letter and have a postage value equivalent to the price of a single-piece First-Class Mail International 1-ounce machinable letter in effect at the time of use (mailing).

For R2013–1, we propose to charge the same price for 1-ounce and 2-ounce letter-size mailpieces to Canada. Consequently, for this price change, the Global Forever may also be used to mail a 2-ounce letter-size mailpiece to Canada.

To help distinguish between the domestic and international forever stamps, the international version will always be round and will always bear the words ''*Global Forever*''. The initial offering of the Global Forever stamp will feature a picture of a globe. Finally, as with the domestic Forever stamp, mailers would have the flexibility to use these stamps as postage for any type of single-piece international or domestic mailpiece.

International Extra Services

The Postal Service proposes to increase prices for market dominant extra services by approximately 11.3 percent, for the following:

- Certificate of Mailing (4.4%)
- Registered Mail ™ (10.2%)
- Return Receipt (48.9%)
- International Business Reply Service (16.7%)

Certificate of Mailing

The Postal Service proposes to add the flexibility for mailers who pay for postage with a permit imprint, to now pay the fee using the same permit imprint account. Previously, the only option to pay the fee was for mailers to apply ordinary stamps, meter imprints, or PC Postage® imprints to PS Form 3877, *Firm Mailing Book for Accountable Mail,* or Form 3606, *Certificate of Bulk Mailing*.

Restricted Delivery

Due to low quantity demand by customers, the Postal Service proposes to discontinue outbound international restricted delivery service. Currently, restricted delivery is only available on First-Class Mail International items using Registered Mail service. The Postal Service will continue to offer inbound international restricted delivery service.

International Reply Coupons

Due to low quantity demand by customers, the Postal Service proposes to discontinue the sale of international reply coupons. The Postal Service will continue to exchange (redeem) international reply coupons purchased in foreign countries and presented at U.S. Post Office facilities.

The prices and fees proposed in this notice, if adopted, would become effective concurrent with any domestic prices adopted as a result of the current proceedings before the Postal Regulatory Commission (Docket No. R2013–1). All regulatory changes necessary to implement this proposal are provided below.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR Part 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR Part 20 is proposed to be amended as follows:

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of the *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM) as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

1 International Mail Services

* * * * *

130 Mailability

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134 Valuable Articles

134.1 Service Options

The following services can be used to send the articles noted in *134.2:*

[Revise item 134.1a to read as follows:]

a. First-Class Mail International service with Registered Mail service or First-Class Package International service with Registered Mail service.

* * * * *

135 Mailable Dangerous Goods

135.1 Infectious Substances

* * * * *

135.12 Type of Mail

[Revise 135.12 to read as follows:]

Category B infectious substances must be sent using Registered Mail service via:

a. First-Class Mail International service.

b. First-Class Package International Service.

c. Priority Mail International Flat Rate Envelopes.

d. Priority Mail Small Flat Rate Priced Boxes.

Nonregulated materials defined in DMM 601.10.17.3 and exempt human or animal specimens defined in DMM 601.10.17.2d are mailable by First-Class Mail International service or First-Class Package International Service when properly packaged as described in DMM 601.10.17.

* * * * *

135.3 Packaging, Marking, Labeling

135.31 Category B Infectious Substances

[Revise the first sentence in 135.12 to read as follows:]

A material that is classified as a Category B infectious substance and that meets the definition in DMM 601.10.17.2a2 must be triple-packaged as described in DMM 601.10.17.4, must meet the packaging requirements in 49 CFR 173.199, and must be sent only by First-Class Mail International service, First-Class Package International Service, or Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes using Registered Mail service.* * *

* * * * *

135.5 Radioactive Materials

Shipments containing radioactive materials are acceptable in international mail subject to the provisions of DMM 601 and of Publication 52, *Hazardous, Restricted, and Perishable Mail,* and under the following conditions:

[Revise item 135.5a to read as follows:]

a. Shipments may be sent only by First-Class Mail International service, First-Class Package International Service, or Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes with Registered Mail service.

* * * * *

138 Perishable Matter

138.1 Animals

All live or dead animals are nonmailable, except the following:

* * * * *

[Revise item138.1c(4) to read as follows:]

(4) They are sent by First-Class Mail International service, First-Class Package International Service, or Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes.

* * * * *

140 International Mail Categories

141 Definitions

141.1 General

[Revise 141.1 to read as follows:]

There are five principal categories of international mail that are primarily differentiated from one another by speed of service. They are Global Express Guaranteed® (GXG®) service, Express Mail International® service, Priority Mail International® service, First-Class Mail International® service, and First-Class Package International Service™.

* * * * *

141.4 Priority Mail International

[Revise the second sentence of 141.4 to read as follows:]

* * * This classification is primarily designed to accommodate larger and heavier shipments whose size and/or weight exceeds the limits for First-Class Mail International, or First-Class Package International Service. * * *

* * * * *

141.5 First-Class Mail International

[Revise 141.5 in its entirety to read as follows (this revision also deletes the ''Note''):]

First-Class Mail International is a generic term for mailpieces that are letter-size or flat-size that weigh 4 pounds or less, and that have a value that is $400 or less. First-Class Mail International items may contain any letter-size or flat-size mailable matter that is not prohibited by the destination country. Aerogrammes are no longer available for purchase. Previously purchased aerogrammes are mailable at the applicable First-Class Mail International letter-size price. At the sender's option, extra services, such as Registered Mail and return receipt, may be added on a country-specific basis.

142 Official Mail

* * * * *

142.4 General Secretariat of the Organization of American States (OAS)

[Add an introduction to 142.4 and revise items a and b to read as follows:]

The following standards apply when mail is sent as OAS General Secretariat official mail:

a. Unregistered First-Class Mail International and First-Class Package International Service items bearing the return address of the OAS General Secretariat and weighing not more than 4 pounds are accepted without postage when addressed to the OAS member countries listed in 142.4c.

b. Items sent other than First-Class Mail International or First-Class Package International Service with extra services may not be provided for OAS General Secretariat official mail without the prepayment of postage or the fee for the extra service requested.

* * * * *

142.5 Pan American Sanitary Bureau Mail

[Revise 142.5 in its entirety to read as follows:]

The following standards apply when mail is sent as OAS General Secretariat official mail:

a. Unregistered First-Class Mail International and First-Class Package International Service items bearing the return address of the Pan American Sanitary Bureau and weighing not more than 4 pounds are accepted without postage affixed when addressed to an OAS member country listed in 142.4c or to Cuba.

b. Items with the Pan American Sanitary Bureau return address that are sent other than First-Class Mail International or First-Class Package International Service, or that request extra services must prepay all postage and fees.

150 Postage

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152 Payment Methods

* * * * *

152.3 Stamps

152.31 Types of Stamps

[As explained in an upcoming revision article, and to be effective November 5, 2012 (which is before these revisions on mailing services will be effective), we will switch the order of sections 152.2 and 152.3 (so that ''Stamps'' will be the title of 152.3) and will revise the renumbered 152.3. Then, effective January 27, 2013, we will revise the renumbered 152.31 and revise item d and insert a new item e to read as follows:]

The following types of stamps may be used to pay for postage and fees for extra services listed under chapter 3 for all single-piece international mail transactions:

* * * * *

d. *Forever Stamps (domestic):* A domestic *Forever* stamp's value is linked to the domestic First-Class Mail single-piece 1-ounce letter price that is in effect on the day of use (mailing)

regardless of when the stamp is purchased and regardless of how prices may change in the future.

e. *Global Forever Stamps:* A *Global Forever* stamp's value is linked to the First-Class Mail International single-piece 1-ounce machinable letter price that is in effect on the day of use (mailing). *Global Forever* Stamps can be used to mail a 1-ounce machinable letter-size mailpiece anywhere in the world, regardless of when the stamp is purchased and regardless of how prices may change in the future. *Global Forever* stamps are round and always bear the words ''Global Forever.'' In addition, mailers may use the *Global Forever* stamp, as postage for any type of single-piece international or domestic mailpiece. Their value (regardless of purchase date) is always equal to the First-Class Mail International single-piece 1-ounce machinable letter price that is in effect on the day of use (mailing).

[Revise 153.32 to read as follows:]

152.32 Additional Postage for Nondenominated Postage Stamps, Forever Stamps or Forever Print-on-Demand Indicias

Since international postage prices are always higher than the comparable domestic postage prices, mailers who affix a single nondenominated postage stamp or a domestic *Forever* stamp to their outbound mailpieces must add additional postage to comply with the international price schedule.

* * * * *

2 Conditions for Mailing

* * * * *

240 First-Class Mail International

241 Description and Physical Characteristics

241.1 General

[Revise 241.1 to read as follows:]

The First-Class Mail International® classification encompasses the categories of international mail that before May 14, 2007, were categorized as airmail letter-post and economy letter-post, postcards, and printed matter.

241.2 Physical Characteristics

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241.23 Physical Standards—Large Envelopes (Flats)

* * * * *

241.232 Dimensions and Characteristics

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[Revise the ''Note'' to read as follows:]

Note: The length of a large envelope (flat) is always the longest dimension. The height is the dimension perpendicular to the length. A First-Class Mail International large envelope (flat) that does not meet the standards in 241.23 is not eligible for the large envelope (flat) size price and is charged the applicable First-Class Package International Service (small packet) price.

* * * * *

241.24 Physical Standards—Packages (Small Packets)

[Delete in its entirety section 241.24 titled ''Physical Standards—Packages (Small Packets).''.]

* * * * *

242 Eligibility

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242.4 Extra Services

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[Delete in its entirety section 242.44 titled ''Restricted Delivery.'']

243 Prices and Postage Payment Methods

243.1 Prices

243.11 Prices and Price Application—General

[Revise 243.11 in its entirety to read as follows:]

First-Class Mail International cards, letters, and large envelopes (flats) are *charged postage for each addressed piece according to its weight and price group. For prices, see* Notice 123, *Price List.*

* * * * *

243.13 Destinating Countries and Price Groups

[Revise 243.13 to read as follows:]

See the Individual Country Listings to determine the country-specific price group for First-Class Mail International. For postage prices, see Notice 123, *Price List.*

[Delete Exhibit 243.13 in its entirety.]

* * * * *

244 Mail Preparation

* * * * *

[Revise the title to 244.2 to read as follows:]

244.2 Markings

The following markings apply to First-Class Mail International items:

* * * * *

[Delete current item 244.2 b in its entirety and redesignate current item c as the new item b, and revise new item b to read as follows:]

b. First-Class Mail International letters and large envelopes (flats) that qualify as free matter for the blind or physically handicapped must bear the marking ''Free Matter for the Blind or Physically Handicapped'' in the upper-right corner of the address side of the mailpiece. See 274.2.

244.3 Sealing

[Revise the second sentence of 244.3 to read as follows:]

* * * Mailpieces not sealed by conventional means, such as moistening the gummed flaps on envelopes, must be closed in such a manner as to prevent the contents from falling out or being damaged during postal handling and transport. * * *

244.4 Packaging

[Revise the introductory text of 244.4 to read as follows:]

The following packaging methods may be used for First-Class Mail International letter-size and flat-size items:

* * * * *

[Delete current item 244.4d in its entirety, and redesignate current items e and f, as items d and e.]

* * * * *

270 Free Matter for the Blind or Other Physically Handicapped Persons

* * * * *

272 Postage Prices

Postage is free for the following eligible items marked ''Free Matter for the Blind or Physically Handicapped'':

[Revise item 272a and b and insert new items c and d to read as follows:]

a. A First-Class Mail International item.

b. The Priority Mail International Flat Rate Envelopes.

c. The Priority Mail Small Flat Rate Priced Boxes.

d. A Priority Mail International parcel weighing up to 15 pounds.

* * * * *

273 Weight and Size Limits

273.1 Weight Limit

[Revise the first paragraph of 273.1 to read as follows:]

For First-Class Mail International or First-Class Package International Service items, or the Priority Mail International Flat Rate Envelopes and Small Flat Rate Priced Boxes, the weight limit is 4 pounds.

* * * * *

273.2 Size Limits

[Revise 273.2 in its entirety to read as follows:]

For First-Class Mail International items, see 241.2.

For First-Class Package International Service items, see 251.2.

For Priority Mail International parcels, see 231.2.

274 Mail Preparation

* * * * *

274.2 Marking

[Revise 274.2 in its entirety to read as follows:]

In addition to the markings required in 244.2 for First-Class Mail International items, in 254.2 for First-Class Package International Service items and in 234.2 for Priority Mail International parcels, free matter must be marked ''Free Matter for the Blind or Handicapped'' in the upper right-hand corner of the address side of the mailpiece.

* * * * *

275 Extra Services

* * * Only the following extra services are authorized:

[Revise item 275a to read as follows:]

* * * * *

a. Registered Mail service for First-Class Mail International items, First-Class Package International Service items, and Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes.

* * * * *

3 Extra Services

310 Certificate of Mailing

311 Individual Pieces

* * * * *

311.2 Availability

311.21 At Time of Purchase

A customer may purchase a certificate of mailing (individual pieces) when sending the following:

* * * * *

[Insert new item 311.21c and redesignate current items c through f as items d through g.]

c. Unregistered for First-Class Package International Service items.

* * * * *

311.3 Fees

* * * * *

311.32 Three or More Individual Pieces

[Revise 311.32 to read as follows:]

When mailing three or more pieces, the mailer may optionally use PS Form 3877. In addition to the correct postage, the mailer must pay the certificate of mailing fee for each article on PS Form 3877 by affixing ordinary (uncanceled) stamps, meter imprints, or PC Postage imprints to the PS Form 3877. Mailers paying for the postage with a permit imprint may also pay the fee at the time of mailing using the same permit imprint account. For a separate fee, the mailer may request a duplicate copy of PS Form 3877 after mailing (see 311.22). See Notice 123, *Price List.*

* * * * *

312 Bulk Quantities—Certificate of Mailing

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312.2 Availability

312.21 At Time of Entry

A customer may purchase a certificate of bulk mailing when sending the following identical-weight items:

* * * * *

[Insert new item 312.21c and redesignate current items c through f as d through g.]

c. Unregistered for First-Class Package International Service items.

* * * * *

312.3 Fees

[Revise 312.3 to read as follows:]

In addition to the correct postage, the applicable certificate of bulk mailing fee must be paid for mailings of identical-weight pieces reported on PS Form 3606. The mailer may pay the fee by ordinary (uncanceled) stamps, meter imprints, or PC Postage imprints by affixing them to the form. Mailers paying for the postage with a permit imprint also may pay the fee, at the time of mailing, with the same permit imprint account. For a separate fee, the mailer may request a duplicate copy of PS Form 3606 after mailing (see *312.22*). See *Notice 123, Price List,* for all applicable fees.

* * * * *

330 Registered Mail

* * * * *

332 Availability

* * * Registered Mail service is available for the following types of mail:

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[Add new item d to read as follows:]

d. First-Class Package International Service items, including free matter for the blind items.

* * * * *

334 Processing Requests

334.1 Mailing Receipt and Registration Number

* * * * *

334.13 Accepting Clerk's Responsibility

The accepting clerk must:

* * * * *

[Revise item 334.13d. to read as follows:]

d. Enter the registration fee and postage plus the return receipt fee, if applicable, on the receipt.

* * * * *

[Revise the title and text of 334.5 to read as follows:]

334.5 Return Receipt

Return receipts can be purchased for Registered Mail items to most countries. (See 340 and 350 and Individual Country Listings.)

* * * * *

350 Restricted Delivery

[Revise 350 in its entirety to read as follows (this replaces all the current text from 351 through 354.2):]

Restricted delivery service is no longer available and was discontinued effective January 27, 2013. It was limited to First-Class Mail International items, the Priority Mail International Flat Rate Envelopes and the Small Flat Rate Priced Boxes when used in conjunction with Registered Mail service.

[Delete 351 through 354.2 in their entirety.]

* * * * *

380 Supplemental Services

381 International Reply Coupons

[Revise 381 in its entirety to read as follows:]

381.1 Description

As of January 27, 2013, the U.S. Postal Service no longer sells international reply coupons. However, coupons previously sold by the U.S. Postal Service can still be used or exchanged (see 381.2). The following standards apply to international reply coupons:

a. The sender of a letter may prepay a reply by purchasing reply coupons that are sold and exchangeable for postage stamps by participating postal administrations in member countries of the Universal Postal Union.

b. International reply coupons (in French, *Coupons-Reponse Internationaux*) are printed in blue ink on paper that has the letters ''UPU'' in large characters in the watermark. The front of each coupon is printed in French. The reverse side of the coupon shows the text relating to its use in German, English, Arabic, Chinese, Spanish, and/or Russian.

381.2 Previously Sold Coupons and Exchange Value

The following standards apply to the exchange of international reply coupons:

a. International reply coupons sold by the United States Postal Service prior to January 27, 2013, are exchangeable in any other member country for a stamp or stamps representing the minimum postage on an unregistered air letter. Unused U.S. coupons (that is, those with the U.S. selling price stamped on them that are not ultimately redeemed by recipients in other countries) may be exchanged only by the original purchaser for United States postage stamps at a discount of 1 cent below the purchase price.

b. With the exceptions noted in 381.3d, international reply coupons purchased in foreign countries are exchangeable at U.S. Post Office facilities toward the purchase of postage stamps and embossed stamped envelopes at the current maximum First-Class Mail International 1-ounce, letter-size price, per coupon, irrespective of the country where they were purchased. See Notice 123, *Price List.*

381.3 Processing Requests

The following standards apply when processing international reply coupons:

a. Under Universal Postal Union's regulations, participating member countries are not required to place a control stamp or postmark on the international reply coupons that they sell. Therefore some foreign issue reply coupons that are tendered for redemption may bear the name of the issuing country (generally in French) rather than the optional control stamp or postmark. Such coupons are exchangeable for U.S. postage as specified in 381.2b.

b. A Post Office facility redeeming an unused U.S. coupon must postmark it in the unpostmarked circle. A Post Office facility exchanging a foreign reply coupon must postmark it. Post Office facilities must not accept foreign coupons that already bear a United States Postal Service postmark.

c. The only valid version of the international reply coupons printed by the Universal Postal Union is Item Number 330800, which is approximately 3.75 inches by 6 inches, has a barcode on the reverse side, and has an expiration date of December 31, 2013. This policy is for international reply coupons issued by the United States before January 27, 2013 as well as for those issued by foreign postal administrations.

d. Reply coupons formerly issued by the Postal Union of the Americas and Spain are no longer valid. These coupons are printed in green ink and bear the caption *Cupon Respuesta America-Espanol.* Customers possessing any of these coupons should return them to their correspondents in the country of issue for redemption through the selling post office.

e. Postmasters must process exchanged foreign and redeemed U.S. international reply coupons as prescribed in 11–6.6, ''International Reply Coupons'' in Handbook F–101, *Field Accounting Procedures.*

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4 Treatment of Outbound Mail

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420 Unpaid and Shortpaid Mail

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423 Shortpaid Mail

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423.2 Disposition

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423.24

[Revise the title of 423.24 to read as follows:]

423.24 First-Class Mail International Items (including Postcards), First-Class Mail Package International Service, Airmail M-Bags, Priority Mail International Flat Rate Envelopes, and Priority Mail International Small Flat Rate Priced Boxes

423.241 Items Paid With a Permit Imprint or USPS-Produced PVI Label

[Revise the text of 423.241 to read as follows:]

Regardless of the amount of deficiency, consider as paid in full each shortpaid First-Class Mail International item (including a postcard), First-Class Package International Service, Airmail M-bag, Priority Mail International Flat Rate Envelope, and Priority Mail International Small Flat Rate Priced Box that is paid with a permit imprint or USPS-produced postage validation imprinter (PVI) label, and dispatch it to the appropriate International Service Center (ISC).

423.242 Items Paid With Any Other Postage Payment Method

[Revise the text of the introduction of 423.242 to read as follows:]

The disposition of a shortpaid First-Class Mail International item (including a postcard), First-Class Package International Service, Airmail M-bag, Priority Mail International Flat Rate Envelope, and Priority Mail International Small Flat Rate Priced Box that is paid with a postage payment method other than a permit imprint or USPS-produced PVI label is based on the amount of the deficiency, as follows:

* * * * *

7 Treatment of Inbound Mail

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770 Undeliverable Mail

771 Mail of Domestic Origin

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[Revise 771.5 in its entirety to read as follows:]

771.5 Return Charges for Letter-Post Items

771.51 General

Except as noted in 771.52, any undeliverable-as-addressed mail item listed below that a foreign postal administration returns to the U.S. sender is not subject to the payment of return charges. This provision applies to postal items that were originally entered at the following rates of postage:

a. Priority Mail International Flat Rate Envelope.

b. Priority Mail International Small Flat Rate Priced Box.

c. First-Class Mail International (including postcards).

d. First-Class Package International Service.

e. Airmail M-bag.

f. International Priority Airmail (IPA), including M-bags.

g. International Surface Air Lift (ISAL), including M-bags.

771.52 Exceptions

Delivery Post Office facilities should collect return charges from the U.S. sender under the following circumstances:

a. If a returned letter-post item listed in 771.51 bears a short-paid endorsement that was originally applied by the Postal Service dispatching exchange office, the delivery office should collect the amount of the postage deficiency that would otherwise have been collected from the foreign addressee.

b. If a returned letter-post item listed in 771.51 bears a collection instruction that was applied by an International Service Center (ISC), international exchange office, or mail recovery center, the delivery office should collect the ''due amount'' that is specified on the mailpiece.

* * * * *

780 Items Mailed Abroad by or on Behalf of Senders in the United States

781 Payment Required

* * * * *

781.2 Handling Charges

[Revise 781.2 to read as follows:]

Undeliverable-as-addressed mail returned to the sender for which outbound postage was not paid to the U.S. Postal Service is subject to the payment of handling charges. On delivery to the sender, the sender may be charged the applicable First-Class Mail International or First-Class Package International Service price for the weight and shape of the returned piece.

* * * * *

9 Inquiries, Indemnities, and Refunds

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920 Inquiries and Claims

921 Inquiries

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921.2 Initiating an Inquiry

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Exhibit 921.2 Time Limits for Inquiries

[Revise the ''Note'' in Exhibit 921.2 to read as follows:]

Note: Inquires are not accepted for First-Class Mail International items, First-Class Package International Service items, Priority Mail International Flat Rate Envelopes or Small Flat Rate Priced Boxes, or M-bags.

* * * * *

940 Postage Refunds

[Revise the title of 941 to read as follows:]

941 Postage Refunds for First-Class Mail International, First-Class Package International Service, and Priority Mail International

941.1 General

[Revise 941.1 to read as follows:]

A refund may be made when postage, extra service fees, or other charges have been paid on the following First-Class Mail International, First-Class Package International Service, or Priority Mail International items:

a. Items for which full service was not rendered.

b. Items that were paid in excess of the proper price.

* * * * *

Country Price Groups and Weight Limits

[Revise the text to read as follows:]

Listed below are the countries and their price groups and weight limits for the five principal categories of international mail. Complete tables of prices and weights appear in the Individual Country Listings (ICLs).

* * * * *

[Revise footnote 2 to read as follows:]

2. First-Class Mail International maximum weights: Letters, 3.5 ozs.; Large Envelopes (flats), 4 lbs. Note that the heading in the maximum weight column lists both ounces and pounds (''ozs./lbs.'') and that there are two numbers in the entry for each country (''3.5/4'')—this indicates that the maximum weight for Letters is 3.5 ozs., and that the maximum weight for Large Envelopes (flats) is 4 lbs. For First-Class Package International Service, maximum weight is 4 lbs.

* * * * *

[Revise footnote 5 to read as follows:]

5. Korea, Democratic People's Republic of (North Korea): First-Class Package International Service is not available. In addition, Priority Mail International parcel services are not available, including the Small Flat Rate Priced Boxes. Priority Mail International Flat Rate Envelopes (maximum weight: 4 lbs.) may be used. Regardless of mail class, dutiable items and merchandise are prohibited.

* * * * *

[In the table, revise the heading for ''First-Class Mail International'' to read as ''First-Class Mail International and First-Class Package International Service''.]

* * * * *

Individual Country Listings

* * * * *

First-Class Mail International (240)

* * * * *

[For each country that offers First-Class Mail International service, revise the introductory text to read as follows, however, retain the country's current Price Group designation.]:

For the prices and maximum weights for letters, large envelopes (flats) and postcards, see Notice 123, *Price List.*

Size Limits

[For each country that offers First-Class Mail International service, revise the text to read as follows:]

Letters: See 241.212

Postcards: See 241.221

Large Envelopes (Flats): See 241.232

* * * * *

Matter for the Blind (270)

[For each country that offers Matter for the Blind, revise the first paragraph to read as follows:]

Free when sent as First-Class Mail International or First-Class Package International Service, or in Priority Mail International Flat Rate Envelopes or the Small Flat Rate Priced Boxes. Weight limit: 4 pounds.

Extra Services

Certificate of Mailing (313)

[For each country that offers certificate of mailing service, revise the fees to read as follows:]

Individual Pieces	Fee
Individual article (PS Form 3817)	$1.20
Firm mailing books (PS Form 3877), per article listed (minimum 3)	0.44
Duplicate copy of PS Form 3817 or PS Form 3877 (per page)	1.20

Bulk Quantities	Fee
First 1,000 pieces (or fraction thereof)	$7.05
Each additional 1,000 pieces (or fraction thereof)	0.85
Duplicate copy of PS Form 3606	1.20

* * * * *

International Business Reply Service (382)

[For each country that offers International Business Reply service, revise the fees to read as follows:]

Fee: Envelopes up to 2 ounces $1.75; Cards $1.25

* * * * *

International Reply Coupons (381)

[For each country revise the text to read as follows:]

Discontinued January 27, 2013

* * * * *

Registered Mail (330)

[For each country that offers international Registered Mail service, revise the fee to read as follows:]

Fee: $12.95

* * * * *

Restricted Delivery (350)

[For each country revise the text to read as follows:]

Discontinued January 27, 2013

Return Receipt (340)

[For each country that offers international return receipt service, revise the fee to read as follows:]

Fee: $3.50

* * * * *

We will publish an appropriate amendment to 39 CFR Part 20 to reflect these changes if our proposal is adopted.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–25992 Filed 10–22–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: In October 2012, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective in January 2013. This proposed rule contains the revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) that we would adopt to implement the changes coincident with the price adjustments.

DATES: We must receive comments on or before November 23, 2012.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service,® 475 L'Enfant Plaza SW., Room 4446, Washington, DC, 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *MailingStandards@usps.gov,* with a subject line of ''January 2013 Domestic Mailing Services Proposal.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278.

SUPPLEMENTARY INFORMATION: Proposed prices will be available under Docket Number R2013–1 on the Postal Regulatory Commission's Web site at *www.prc.gov.*

The Postal Service's proposed rule includes several mail classification changes, modifications to mailpiece characteristics, and changes in classification terminology.

Proposed Change for Letters

Commercial First-Class Mail® Letters

The pricing structure for presorted and automation First-Class Mail letters would retain the change implemented in 2012 for the minimum postage charge to be that for a 2-ounce letter, and would extend the concept to residual single-piece letters that are part of the same mailing job and presented at the same time as the presorted or automation mailing. There would be a new price for residual letters up to 2 ounces, which would be different than the price for single-piece letters presented as a stand-alone mailing.

Standard Mail® Letters

We propose to add a new price tier for high density letters. In addition to the current high density tier which requires a minimum of 125 pieces per carrier route, the new tier (high density plus) would require a minimum of 300 pieces per carrier route.

Proposed Changes for Flats

Standard Mail Flats

We propose to add a new price tier for high density flats. In addition to the current high density tier which requires a minimum of 125 pieces per carrier route, the new tier (high density plus) would require a minimum of 300 pieces per carrier route.

Proposed Changes for Letters and Flats

Preparing Residual Mail From First-Class Mail and Standard Mail Mailings

We propose to revise DMM 235.0, 245.0, 335.0, 345.0, and 705.8.0 to provide new standards for the preparation of pallets, trays, and sacks of First-Class Mail or Standard Mail letters and flats.

The Postal Service continuously reviews the processes and requirements related to the preparation and entry of mail from commercial mailers. In this regard, the Postal Service, working in collaboration with the commercial mailing industry, has identified areas for improved mutual efficiencies from minor changes to its mail preparation standards. These specific revisions were offered by members of the mailing community, adopted and implemented as optional standards in the context of a *Postal Bulletin* article (22344, August 23, 2012), and incorporated into the DMM on September 4, 2012. The Postal Service now presents this proposal to adopt these current options as mandatory preparation standards.

These changes would generally require mailers to place trays or sacks of residual single-piece First-Class Mail letters and flats on an origin sectional center facility (SCF) pallet; and to place trays or sacks of residual Standard Mail letters and flats, paid at the single-piece First-Class Mail prices, on a mixed network distribution center (NDC) pallet. The Postal Service also would require use of new human-readable texts linked to several existing content identifier number (CIN) codes that specifically identify single-piece mailpieces. This would require new text on origin SCF pallet placards, identifying this pallet level as a working pallet; and barcoded labels for trays of residual pieces.

No Additional Entry Fees for Periodicals

We propose changing the designation ''additional entry'' to ''additional mailing offices'' and eliminating the fees for Periodicals publications to be mailed in multiple locations. Approved Periodicals would be able to mail at any Post Office™ with *PostalOne!®* access.

Change in Advertising Percentage Allowed for Periodicals Requester Publications

Requester publications will be permitted to exceed 75% advertising in no more than 25% of the issues produced in any 12-month period. This will allow publishers greater advertising flexibility during high advertising volume periods.

Endorsements on Mailing Wrappers for Periodicals

We propose to clarify that the term ''mailing wrapper'' includes all types of packaging used to enclose Periodicals publications, by adding ''carton'' to the definition of mailing wrapper. We also extend the return address requirement to pieces that are unendorsed because all Periodicals receive a type of address correction. These revisions will ensure processing the pieces as Periodicals and eliminate the need to open the items when the mailpiece must be forwarded or returned.

Proposed Changes for Parcels

Parcel Post®

Parcel Post has become a competitive product, excluding Alaska Bypass. Parcel Post will only be offered at retail in January 2013, and will be renamed in the near future, pending PRC review. The Postal Service proposes to retain as a market-dominant product the part of our current Parcel Post product that applies to mail currently eligible for Alaska Bypass service, and call the product ''Alaska Bypass Service.''

Standard Mail Marketing Parcels, Including Product Samples

Prices for marketing parcels are designed for parcels containing information and/or product samples with the purposes of encouraging recipients to purchase a product or service, make a contribution, support a cause, form a belief or opinion, take an action, or obtain information. Standard Mail Marketing parcels would be mailable at Presorted prices only, except for the new category of Product Samples (also known as Simple Samples), which would be mailable at targeted (similar to the current basic carrier route) or saturation (Every Door) prices. Marketing parcels in general continue to have a maximum size of 12 inches by 9 inches by 2 inches thick.

Product Sample parcels, like other marketing parcels, must be addressed using an alternative addressing format. In addition, each parcel in a mailing of Product Sample parcels must be of identical size and weight. Within each of the price categories—targeted and saturation—there will be separate prices for small samples and for large samples. Targeted parcels must be sorted to carrier routes, with a minimum of one parcel per route. Saturation parcels must bear simplified addresses and be sorted by route. Detached address labels (DALs) must be used with targeted parcels, and there is no additional charge per DAL. DALs are optional with saturation parcels, and there will be an additional charge for each DAL (including detached marketing labels or DMLs).

Special, Extra, and Other Services

Certificate of Bulk Mailing—Fee Payment

Effective August 6, 2012, the Postal Service revised DMM 503.5 to allow mailers paying postage by permit imprint to report identical weight pieces on PS Form 3606, *Certificate of Bulk Mailing.* For January 2013, the Postal Service proposes to allow mailers paying postage for the pieces reported on a PS Form 3606 by permit imprint to also pay for the fees by permit imprint.

Delivery Confirmation

We would revise the DMM to expand acceptable terminology being allowed for Delivery Confirmation ™ service to include *USPS Tracking/Delivery Confirmation.* This would provide clarification to mailers who use privately printed forms, create integrated labels, or who may receive an applicable tracking label affixed to their packages at retail Post Offices, station or branches, that the text is acceptable in either format.

Return Receipts

Current DMM standards permit customers to request proof of delivery via mail, fax, email, or electronically when electronic return receipt is purchased at the time of mailing or via mail, fax, or email when PS Form 3811–A, *Request for Delivery Information/ Return Receipt After Mailing* is requested. The Postal Service proposes to restrict the service provided for electronic return receipts purchased at the time of mailing by discontinuing the provision to provide electronic records by fax, mail or on CD-Rom (for Bulk Proof of Delivery) and for return receipts purchased after mailing by discontinuing the provision of providing proof of delivery signature data by fax. Customers would receive proof of delivery signature data by email for electronic return receipts purchased at the time of mailing and by email, or a PS Form 3811–A by mail for return receipts purchased after mailing. Customers will continue to be able to purchase return receipt (PS Form 3811) at the time of mailing and receive the 'green card' receipt with delivery signature by mail.

The Postal Service has reviewed data about customer usage of proof of delivery services and the associated system work and time necessary to provide proof of delivery letters by fax, by mail, or in bulk on CD-Rom. Year-to-date data shows that approximately 95.8% (up from 91.6% last fiscal year) of customers receive the proof of delivery record by email.

Approximately 97.2% of our customers that receive bulk proof of delivery records electronically receive their records weekly via signature extract file format, instead of bi-monthly by CD-Rom. The cost of the CD-Roms are not included in the price of the service, and the additional work required in addition to maintaining the signature extract file format is currently absorbed by the Postal Service.

These revisions would help the Postal Service reduce costs and improve the turnaround time for delivery records to be received by our customers.

Additionally, the Postal Service is considering plans for future enhancements to bulk proof of delivery record exchanges. Any customers having an interest in providing input on the options, or participating in potential testing, may provide their contact information at *shippingservices@usps.gov* by November 1, 2012.

Registered Mail and COD-Where To File Claims for Indemnity

We are extending the online claims function to allow customers filing claims for indemnity for domestic Registered Mail or COD articles the option of filing online at *www.usps.com/insuranceclaims/ online.htm.*

IMb Tracing ™

We are removing language concerning the old Confirm® service from DMM 503.15.0, because all Confirm subscriptions will end by January of 2013. IMb Tracing now provides a service similar to the old Confirm service.

Picture Permit Imprint Indicia

Effective June 24, 2012, the Postal Service introduced picture permit imprint indicia standards allowing customers to include business-related color images, such as corporate logos, company brand, or trademarks, in the permit indicia area on commercial mailings of IMb ™ full-service automation First-Class Mail letters and postcards, and of IMb full-service automation Standard Mail automation letters, for a per-piece fee in addition to postage.

For January 2013, we propose to expand picture permit imprint indicia standards to also allow its use on First-Class Mail and Standard Mail flats prepared under the IMb full-service

automation option. Mailers interested in picture permit imprint indicia may contact *picturepermit@usps.com* by email for more information.

Official Mail (Franked and Penalty)

The Postal Service ™ will revise DMM 703.7.0 to remove obsolete standards for the use of official mail such as the need for PS Form 3602–G, references to INTELPOST, and the use of penalty mail stamps.

Advance Notice

The Postal Service is considering the proposal next year of a separate price category for single-piece First-Class Mail metered letters with prices that may be different than other single-piece First-Class Mail letter prices. The Postal Service plans to conduct market research to evaluate various price points for single-piece stamped and metered mail before offering this price differentiation.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410 (a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR part 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters and Cards

* * * * *

230 First-Class Mail

233 Prices and Eligibility

1.0 Prices and Fees for First-Class Mail

* * * * *

1.2 Price Computation for First-Class Mail Letters

[Revise the text of 1.2 as follows]

Commercial First-Class Mail Presorted letters are charged at one price for the first 2 ounces, with separate prices for pieces over 2 ounces up to 3 ounces and for pieces over 3 ounces up to 3.5 ounces. Any fraction of an ounce is considered a whole ounce. For example, if a piece weighs 2.2 ounces, the weight (postage) increment is 3 ounces. The pricing per ounce is similar for automation First-Class Mail letters, with pricing differences per sortation level.

Single-piece price letters that are residual pieces from either a Presorted or automation mailing are charged the residual single-piece price for letters up to 2 ounces.

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235 Mail Preparation

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5.0 Preparing Nonautomation Letters

5.1 Basic Standards

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5.1.2 Single-Piece Price Pieces Presented With Presort Mailings

* * * The following standards apply:

[Revise the first two sentences of the introductory paragraph of item 5.1.2a as follows:]

a. The mailer must prepare the single-piece price pieces in separate trays from the automation and presort pieces. Mailers must label the trays under 708.6.0 using CIN code 260 on trays of single-piece letters. * * *

* * * * *

[Revise item 5.1.2.a2 as follows:]

2. Line 2: Use the human-readable content line corresponding to content identifier number 260 (see Exhibit 708.6.2.4).

* * * * *

240 Standard Mail

243 Prices and Eligibility

* * * * *

6.0 Additional Eligibility Standards for Enhanced Carrier Route

Standard Mail Letters

6.1 General Enhanced Carrier Route Standards

6.1.1 Optional Preparation

* * *

[Revise the second sentence of 6.1.1 as follows:]

* * * An Enhanced Carrier Route mailing may include pieces at basic, high density, high density plus, and saturation prices.

* * * * *

[Revise the headings of 6.4 and 6.4.1 and the text of 6.4.1 as follows:]

6.4 High Density and High Density Plus (Enhanced Carrier Route) Standards

6.4.1 Basic Eligibility Standards for High Density and High Density Plus Prices

High density and high density plus letter-size mailpieces must be in a full carrier route tray or in a carrier route bundle of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. High density and high density plus prices for barcoded letters apply to each piece that is automation-compatible according to 201.3.0, and has an accurate delivery point Intelligent Mail barcode (IMb) encoded with the correct delivery point routing code matching the delivery address and meeting the standards in 202.5.0 and 708.4.0. Pieces that are not automation-compatible or not barcoded are mailable only at the applicable high density or high density plus nonautomation letter prices.

[Revise the title and text of 6.4.2 as follows:]

6.4.2 High Density and High Density Plus Prices for Letters

All pieces mailed at high density prices or high density plus must be prepared in walk sequence according to schemes prescribed by the USPS (see 245.6.8 through 245.6.9). Multiple pieces per delivery address can count toward both density standards. Specific density requirements are as follows:

a. Pieces mailed at high density prices must be sorted together in sequence in quantities of at least 125 pieces for each carrier route.

b. Pieces mailed at high density plus prices must be sorted together in sequence in quantities of at least 300 pieces for each carrier route.

[Revise the title and text of 6.4.3 as follows:]

6.4.3 High Density and High Density Plus Discount for Heavy Letters

High density and high density plus pieces that are automation-compatible under 201.3.0, accurately barcoded with a delivery point IMb, and weigh more than 3.3 ounces but not more than 3.5 ounces, require postage equal to the piece/pound price and receive a

discount equal to the high density flat-size piece price (3.3 ounces or less) minus the high density letter piece price (3.3 ounces or less). The discount is calculated using nondestination entry prices only, regardless of entry level. This discount does not apply to pieces requiring nonautomation high density letter or high density plus prices.

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245 Mail Preparation

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5.0 Preparing Nonautomation Letters

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5.5 Residual Pieces

[Revise the introductory paragraph of 5.5 as follows:]

Mailers entering Standard Mail residual pieces that do not qualify for Standard Mail prices, and paying the First-Class Mail prices (but prepared ''as is'' under 244.5.0), must prepare these pieces in separate trays from the automation and presort pieces. Mailers must label the trays under 708.6.0 using CIN code 560 on residual trays. Label trays as follows:

* * * * *

[Revise 5.5b as follows:]

b. Line 2: Use the human-readable content line corresponding to content identifier number 560 (see Exhibit 708.6.2.4).

* * * * *

300 Commercial Flats

301 Physical Standards

1.0 Physical Standards for Flats

1.1 General Definition of Flat Size Mail

Flat-size mail must have the following characteristics:

* * * * *

[Revise item 1.1c by adding a new last sentence as follows:]

* * * Pieces with enclosures or inserts that protrude up to ½ inch beyond the cover or outside material, under 1.4, are still considered to be rectangular.

* * * * *

1.4 Uniform Thickness

[Revise 1.4 by adding a new second sentence as follows.]

* * * For nonautomation flats and flats correctly drop shipped to destination delivery units, enclosure or insert overhang is allowed up to ½ inch beyond the cover of the host piece.

* * * * *

330 First-Class Mail

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335 Mail Preparation

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5.0 Preparation of Nonautomation Flats

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5.2 Single-Piece Price Pieces Presented With Presort Mailings

[Revise the second and third sentences of the introductory paragraph of 5.2 as follows:]

* * * Mailers must label the trays under 708.6.0 using CIN code 282 on single-piece trays. Label the trays as follows:

* * * * *

[Revise item 5.2b as follows:]

b. Line 2: Use the human-readable content line corresponding to content identifier number 282 (see Exhibit 708.6.2.4).

* * * * *

340 Standard Mail

343 Prices and Eligibility

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6.0 Additional Eligibility Standards for Enhanced Carrier Route

Standard Mail Flats

6.1 General Enhanced Carrier Route Standards

6.1.1 Optional Preparation

[Revise the last sentence of 6.1.1 as follows:]

* * * An Enhanced Carrier Route mailing may include pieces at basic, high density, high density plus, and saturation Enhanced Carrier Route prices.

* * * * *

6.1.3 Full-Service Intelligent Mail Eligibility Standards

In addition to other requirements in 6.0, flats eligible for the full-service Intelligent Mail option must:

* * * * *

[Revise item 6.1.3b as follows:]

b. Be part of a basic carrier route, high density, or high density plus carrier route mailing under 6.3 or 6.4.

* * * * *

6.2 Carrier Route Code Accuracy

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6.2.2 USPS-Approved Methods

[Revise the text of 6.2.2 as follows:]

Carrier route coding must be performed using CASS-certified software and the current USPS Carrier Route Product or another Address Information System (AIS) product containing carrier route information subject to 509.1.0 and 708.3.0. Printed Carrier Route Files (schemes) may be used for Standard Mail Enhanced Carrier Route flat-size mail at basic, high density, high density plus, and saturation prices.

* * * * *

[Revise the title of 6.4 as follows:]

6.4 High Density and High Density Plus (Enhanced Carrier Route) Standards

[Revise the title and text of 6.4 as follows:]

6.4.1 Basic Eligibility Standards for High Density and High Density Plus Prices

All pieces mailed at high density prices must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see 345.6.9).

b. Meet the density requirement of at least 125 pieces for each carrier route. For high density plus prices, the density requirement is at least 300 pieces for each carrier route. Multiple pieces per delivery address can count toward the density standards.

[Revise the title and text of 6.4.2 as follows:]

6.4.2 High Density and High Density Plus Prices for Flats

High density or high density plus prices apply to each piece in a carrier route bundle of 10 or more pieces that is:

a. Palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0.

b. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

c. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces for high density prices.

d. Placed in a carrier route sack containing at least 300 pieces for high density plus prices.

* * * * *

345 Mail Preparation

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5.0 Preparing Nonautomation Flats

* * * * *

5.10 Residual Pieces

[Revise the introductory paragraph of 5.10 as follows:]

Mailers entering Standard Mail residual pieces that do not qualify for Standard Mail prices, and paying the First-Class Mail prices (but prepared ''as is'' under 344.5.0), must separately bundle and sack residual pieces from the automation and presort pieces. Mailers must label sacks under 708.6.0

using the CIN code 582 for use with residual sacks. Label sacks as follows:

* * * * *

[Revise 5.10bas follows:]

b. Line 2: Use the human-readable content line corresponding to content identifier number 582 (see Exhibit 708.6.2.4).

* * * * *

400 Commercial Parcels

401 Physical Standards

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2.0 Additional Physical Standards by Class of Mail

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2.4 Standard Mail Parcels

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2.4.2 Marketing Parcels

Marketing parcels do not meet letters or flats standards and have the following characteristics:

* * * * *

[Add new item 2.4.2e as follows:]

e. Marketing parcels mailed as *small* Product Samples under 443 must be no larger than 6 inches long, 4 inches high and 1.5 inches thick. Product Samples that have any dimension larger than one of the maximum dimensions for a small Product Sample, up to the maximum size in 2.4.2b, are *large* Product Samples.

* * * * *

440 Standard Mail

443 Prices and Eligibility

1.0 Prices and Fees for Standard Mail

* * * * *

[Revise title of 1.2 to read as follows:]

1.2 Regular and Nonprofit Standard Mail—Marketing Parcel and Product Sample Prices

* * * * *

3.0 Basic Standards for Standard Mail Parcels

* * * * *

3.2 Defining Characteristics

* * * * *

3.2.2 Standard Mail Marketing Parcels

[Revise 3.2.2 by adding a new second sentence as follows:]

* * *All Marketing parcels prepared as Product Samples in the same mailing must additionally be identical in size and weight.

* * * * *

[Revise the title and the first two sentences of 3.5 as follows:]

3.5 Merging Similar Standard Mail Mailings

Mailings are subject to the general definitions and conditions in 445.1.0. Generally, mailers may merge similar Standard Mail matter into a single mailing; however all parcels in a mailing of Product Samples must be identical in size and weight. * * *

* * * * *

4.0 Price Eligibility for Standard Mail

4.1 General Information

[Revise the text of 4.1 as follows:]

Standard Mail parcel prices are commercial prices that apply to mailings meeting the basic standards in 2.0 through 4.0 and the specific standards in 5.0 through 6.0. Destination entry discount prices are available under 446.2.0 through 446.5.0. Except for Product Samples, pieces are subject to either a single minimum per piece price or a combined piece/pound price, depending on the weight of the individual pieces in the mailing under 4.2 or 4.3. Prices for Product Samples are available under 6.0. Nonprofit prices are available for USPS-authorized organizations under 703.1.0.

* * * * *

4.2 Minimum Per Piece Prices

The minimum per piece prices (i.e., the minimum postage that must be paid for each piece) apply as follows:

[Revise item 4.2a as follows:]

a. Basic Requirement. Except for pieces mailed at Product Sample prices, pieces are subject to minimum per piece prices when they weigh no more than 3.3 ounces (0.2063 pound).

[Delete current item 4.2b, redesignate current item 4.2c as new item 4.2b and revise as follows:]

b. Individual Prices. Except for Product Samples, there are separate minimum per piece prices for each product and, within each product, for the presort and destination entry levels within each mailing. There are also separate prices for Marketing parcels, Nonprofit machinable parcels, and Nonprofit irregular parcels. Under Marketing parcels, there are separate prices for Product Samples.

4.3 Piece/Pound Prices

[Revise the text of 4.3 as follows:]

Except for Product Samples, pieces that exceed 3.3 ounces are subject to a two-part piece/pound price that includes a fixed charge per piece and a variable pound charge based on weight. There are separate per piece prices for each product, and within each product, for the type of mailing and the presort and destination entry levels within each mailing. There are separate per pound prices for each product.

4.4 Surcharge

[Revise the introductory text of 4.4 as follows:]

Unless prepared as Product Samples or in 5-digit/scheme containers, Standard Mail parcels are subject to a surcharge if: * * *

* * * * *

4.5 Extra Services for Standard Mail

* * * * *

4.5.2 Ineligible Matter

Extra services (other than certificate of mailing service) may not be used for any of the following types of Standard Mail:

* * * * *

[Revise item 4.5.2d as follows:]

d. Pieces mailed at Product Sample prices.

* * * * *

5.0 Additional Eligibility Standards for Presorted Standard Mail Pieces

* * * * *

5.2 Price Application

[Revise the text of 5.2 as follows:]

Prices for Standard Mail and Nonprofit Standard Mail apply separately to Marketing parcels (and within Marketing parcels, to Product Samples) that meet the eligibility standards in 2.0 through 4.0 and the applicable preparation standards in 445.5.0, 705.6.0, 705.8.0, or 705.22. Prices for Nonprofit parcels not qualifying as Marketing parcels apply separately to machinable parcels and irregular parcels. When parcels are combined (except for Product Samples, which cannot be combined with other parcels) under 445.5.0, 705.6.0, or 705.22, all pieces are eligible for the applicable prices when the combined total meets the eligibility standards.

* * * * *

[Revise the title and the standards within 6.0 as follows:]

6.0 Additional Eligibility Standards for Marketing Parcels Mailed as Product Samples

6.1 General Product Sample Standards

6.1.1 Basic Standards and Optional Preparation

Product Samples are a type of Marketing parcels, and must be sorted to carrier routes. See 401.2.4.2 for physical standards and 443.3.0 for basic standards.

Preparation to qualify for any Product Sample price is optional and need not be performed for all carrier routes in a

5-digit area. A Product Sample mailing may include pieces mailed at targeted prices and pieces mailed at saturation (Every Door) prices, but all pieces in a mailing must be identical in size and weight. All mailings of Product Samples must be entered under DNDC, DSCF, or DDU standards (see 446). No origin office entry of Product Samples is allowed.

6.1.2 Pricing for Product Samples

See Notice 123-Price List for price tables. Product Samples (or samples and DALs) must be sorted to carrier routes, including delivery routes and Post Office Box sections. Product Sample mailings are subject to per piece prices and, when not entered at a DDU, are subject to carton/sack and/or pallet prices. Piece prices are different for parcels sorted to the Targeted level (6.3) than for parcels sorted to the saturation level (6.4). Within each sortation level, piece prices are different for small parcels than for large parcels (see 401.2.4.2). Prices for cartons (or sacks) and pallets are subject to the following conditions:

a. A pallet charge applies to each pallet of Product Samples entered at a DNDC or DSCF, except 3-digit pallets properly entered at a DSCF.

b. A carton or sack charge applies to each carton or sack of Product Samples on a 3-digit pallet. Each carton must not exceed 40 pounds nor exceed a combined length and girth of 108 inches.

6.1.3 Basic Eligibility Standards

All parcels in a mailing of Product Samples must bear an alternative addressing format under 602.3.0. Parcels mailed at saturation prices must bear a simplified address. In addition, all Product Sample parcels must:

a. Meet the basic standards for Standard Mail in 2.0 through 4.0.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of parcels mailed at Product Sample prices. Regular and Nonprofit mailings must meet separate minimum volumes.

c. Be sorted to carrier routes and documented under 445.6.0 and 705.8.0, as applicable.

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point barcode and that meets the carrier route accuracy standard in 6.2.

e. Meet the applicable sequencing requirements in 6.3 through 6.5 and in 445.6.6.

6.2 Carrier Route Accuracy

6.2.1 Basic Standards

The carrier route accuracy standard is a means of ensuring that the carrier route code correctly matches the delivery address information on detached address labels (DALs) used with Product Samples mailed at targeted prices. For the purposes of this standard, *address* means a specific address associated with a specific carrier route code. This standard does not apply to pieces with simplified addresses. Addresses used on pieces subject to the carrier route accuracy standard must meet these requirements:

a. Each address and associated carrier route code used on the pieces in a mailing must be updated within 90 days before the mailing date with one of the USPS-approved methods in 6.2.2.

b. If the carrier route code of an address used on a piece in a carrier route mailing at one class of mail and price is updated with an approved method, the same address may be used during the following 90 days to meet the carrier route accuracy standard required for mailing at any other class of mail and price.

6.2.2 USPS-Approved Methods

Carrier route coding must be performed using CASS-certified software and the current USPS Carrier Route Product or another Address Information System (AIS) product containing carrier route information subject to 509.1.0 and 708.3.0.

6.2.3 Mailer Certification

The mailer's signature on the postage statement certifies that the carrier route accuracy standard has been met for each address in the corresponding mailing presented to the USPS.

6.3 Additional Standards for Targeted Product Samples

6.3.1 Sequencing

All parcels mailed at targeted prices must be accompanied with detached address labels (DALs) prepared in walk sequence (see 445.6.6). The combined weight of the DAL and associated sample must be less than 1 pound; there are no additional fees for use of DALs with pieces mailed at targeted prices.

6.3.2 Basic Preparation for Targeted Prices

Targeted prices apply to each parcel in a carrier route sack or carton containing at least 1 piece per carrier route, prepared under 445.6.0. There are separate targeted prices for small parcels and for large parcels (see 401.2.4.2). DALs must be in carrier route bundles and prepared under 602.4.0.

6.4 Additional Standards for Saturation (Every Door) Product Samples

6.4.1 Basic Eligibility Standards for Saturation Prices

All parcels in a mailing at saturation prices must bear simplified addresses (or be accompanied by DALs bearing simplified addresses), and the mailing must meet the saturation standards for simplified addressed pieces under 602.3.0. For DAL charges, see Notice 123—Price List.

6.4.2 Basic Preparation for Saturation Prices

Saturation prices apply to each parcel in a carrier route sack or carton of simplified addressed pieces, or as allowed in bundles on pallets under 445.6.0. If used, DALs must be in carrier route bundles and prepared under 602.4.0.

* * * * *

444 Postage Payment and Documentation

* * * * *

[Revise the title of 2.0 as follows:]

2.0 Additional Postage Payment Standards

* * * * *

2.2 Nonidentical-Weight Pieces

[Revise the text of 2.2 as follows:]

Product Samples must be of identical weight within each mailing. Postage for other nonidentical-weight parcels may be paid by precanceled stamps, subject to 4.0 and 604.3.0. Mailings of nonidentical-weight pieces subject to the piece/pound prices may have postage paid by permit imprint (if the mailer is authorized by Business Mailer Support) or by meter (if each piece has the full postage affixed). Alternatively, the mailer may affix the per piece price to each piece and pay the pound price for the mailing through an advance deposit account. Under this option, the mailer must provide a postage statement for each payment method and mark each piece ''Pound Price Pd via Permit'' in the postage meter indicium. For mailings of nonidentical-weight pieces, ''nonidentical'' must be shown as the weight of a single piece on the postage statement.

* * * * *

445 Mail Preparation

1.0 General Information for Mail Preparation

* * * * *

1.2 Definition of Mailings

Mailings are defined as:

* * * * *

b. Standard Mail. Except as provided in 443.3.6, the types of Standard Mail listed below may not be part of the same mailing.

[Revise items 1.2b1 and 1.2b2 as follows:]

1. Product Sample parcels and any other type of mail.

2. Product Sample parcels of nonidentical size or nonidentical weight.

* * * * *

1.3 Terms for Presort Levels

Terms used for presort levels are defined as follows:

[Revise item 1.3a as follows:]

a. *Targeted (Product Samples):* a type of Marketing parcel that is sorted to (and marked as) the carrier route level, with a minimum of one piece per carrier route. Multiple pieces per route are all addressed for delivery to the same city route, rural route, highway contract route, Post Office box section, or general delivery unit.

* * * * *

2.0 Bundles

2.1 General

[Revise the text of 2.1 as follows:]

A *bundle* is a group of addressed pieces for a presort destination secured together as a unit. Bundling is permitted only for Marketing parcels mailed at Product Sample prices and prepared on 5-digit/L606 pallets, and for related DALs when used. Bundles must be in equal quantities of up to 50 parcels per bundles, with quantities of other than 50 indicated on a bundle facing slip. Bundles must be either banded or shrinkwrapped, and bundles of pieces more than 8 ounces each must be banded and shrinkwrapped. See 601.2.0 for other bundling standards.

[Revise the title of 2.2 as follows:]

2.2 Facing Slips—Product Samples

[Revise the introductory text and item b of 2.2 as follows:]

Facing slips used on bundles of Product Sample parcels must show the quantity in the bundle if less than 50 and this information:

* * * * *

b. Line 2: Content (e.g., ''STD MKTG SAMPLE) if accompanied by DALs bundled by carrier route or contents followed by carrier route type and route number when not accompanied by DALs. (e.g., ''STD MKTG SAMPLE CR R 012'').

3.0 Sacks

3.1 Standard Containers

[Revise the first sentence of the introductory text, and add a new second sentence, of 3.1 as follows:]

Mailings must be prepared in sacks, except for Product Samples, which may be in cartons, sacks, or bundles directly on pallets. Also, see 602.4.0 when Product Samples are mailed with DALs.

* * * * *

5.0 Preparing Presorted Parcels

5.4 Preparing Marketing Parcels (Less Than 6 Ounces) and Irregular Parcels

5.4.1 Bundling

[Revise the text of 5.4.1 as follows:]

Bundling is permitted only for bundles of Product Sample parcels (and associated DALs) under 6.0.

* * * * *

[Revise the title of 6.0 as follows:]

6.0 Preparing Enhanced Carrier Route Product Sample Parcels

6.1 Basic Standards

All mailings and all pieces in each mailing at an Enhanced Carrier Route (ECR) parcel price are subject to specific preparation standards in 6.4 and 6.5, entry standards in 446, and to these general standards:

* * * * *

[Revise item 6.1b as follows:]

b. All pieces in each mailing must be Product Sample parcels as defined in 443.3.2.2.

* * * * *

[Revise item 6.1e as follows:]

e. Sortation, size, and preparation determine price eligibility as specified in 443.6.0.

6.2 Marking

[Revise the text of 6.2 as follows:]

All Enhanced Carrier Route pieces must be marked under 402.2.0. All pieces must be marked ''ECRLOT'' for pieces claiming a Targeted price, or ''ECRWSS'' for pieces claiming a saturation (Every Door) price.

6.3 Residual Pieces

[Revise the text of 6.3 as follows:]

Parcels not prepared or sorted as a carrier route mailing at Product Sample prices must be prepared as a separate mailing at Standard Mail Presorted prices.

6.4 Bundling

6.4.1 Carrier Route Bundle Preparation

[Revise the text of 6.4.1 as follows:]

Prepare carrier route bundles as follows:

a. Sacks must contain at least 15 pounds or 125 pieces of mail, except under

6.4.2. Cartons may be used instead of sacks. Cartons have no minimum weight, must not weigh more than 40 pounds, and must not exceed 108 inches in combined length and girth.

b. DALs are required for parcels mailed at targeted prices; mailers must prepare carrier route bundles of DALs. Parcels must be prepared in sacks or cartons labeled to the correct 5-digit/L606 destination, and bundled under 2.0 and the same bundling standards as for saturation parcels under 6.4.1c. Prepare bundles of DALs and bundles of samples in the same carton or sack, with the bundles of DALs on the top. See 602.4.0 for additional preparation standards for parcels and accompanying DALs, including optional pallet preparation.

c. DALs are optional for parcels mailed at saturation prices. Parcels must be prepared in sacks or cartons labeled to carrier routes, and bundled under 6.4.1c and 2.0. When DALS are used, they must be prepared in carrier route bundles and placed in the same carton or sack as the samples for the corresponding route. Saturation parcels must be bundled in quantities of 50 or less under 2.0, and the bundles placed on 5-digit/L606 pallets in a stable manner. As an option, bundled saturation parcels without accompanying DALs may be prepared in sacks or cartons labeled to carrier routes.

[Revise the title and the first sentence of 6.4.2 as follows:]

6.4.2 Sacks With Fewer Than the Minimum Number of Pieces Required

As a general exception to 6.4.1 and 6.5.1, mailers may prepare a sack with fewer than 125 pieces or less than 15 pounds of pieces to a carrier route when they are claiming the saturation price for the contents and the applicable density standard is met. * * *

[Revise the title of 6.5 as follows:]

6.5 Preparing Product Samples

6.5.1 Sack Minimums

[Revise the text of 6.5.1 as follows:]

Except for bundled saturation parcels and except under 6.4.2, a sack or carton must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces.

[Delete current items 6.5.1a through 6.5.1c in their entirety.]

6.5.2 Sacking and Labeling

Preparation sequence, sack or carton size, and labeling:

a. Carrier route: required (minimum of 125 pieces/15 pounds).

[Revise item 6.5.2a2 as follows:]

2. Line 2: ''STD MKTG WSS'' (for saturation samples) or ''STD MKTG LOT'' (for targeted samples), followed by the route type and number.

[Add new 6.5.3 as follows:]

6.5.3 Required Palletization

Except for sacks or cartons of Product Samples entered directly at a DDU, all mailings of Product Samples must be palletized. Pallets (under 705.8.10.3) must be used for sacks or cartons or bundles of Product Samples for mail entered at DNDCs and DSCFs.

* * * * *

6.7 Delivery Sequence Documentation

* * * * *

[Revise the title and text of 6.7.2 as follows:]

6.7.2 Product Samples—Targeted

For each mailing of Product Samples at targeted carrier route prices, the mailer must document the total number of pieces mailed to each carrier route.

* * * * *

[Delete current 6.7.4, Saturation Density—Other Mail, in its entirety.]

[Renumber current 6.75 as new 6.7.4.]

6.7.4 Both Prices

[Revise the text of renumbered 6.7.4 as follows:]

If a mailing contains pieces qualifying for targeted and saturation prices, the documentation required may be combined. Entries for pieces at the targeted price must be so annotated on the documentation. For the entire mailing, a summary of the total number of pieces at each price must be provided. This documentation must be submitted with each mailing.

[Delete current 6.7.6, Carrier Route Price, in its entirety.]

* * * * *

446 Enter and Deposit

* * * * *

3.0 Destination Network Distribution Center (DNDC) Entry

* * * * *

3.2 Eligibility

Pieces in a mailing that are deposited at a NDC or ASF under 2.0 and 3.0 are eligible for the DNDC price when the following conditions are met:

* * * * *

[Revise item 3.2b by adding a new last sentence as follows:]

b. * * * Product Samples must be palletized under 445.6.5 and 705.8.10.3.

* * * * *

4.0 Destination Sectional Center Facility (DSCF) Entry

* * * * *

4.2 Eligibility

Pieces in a mailing that meets the standards in 2.0 and 4.0 are eligible for the DSCF price, as follows:

[Revise item 4.2a by adding a new last sentence as follows:]

a. * * * Product Samples must be palletized under 445.6.5 and 705.8.10.3.

* * * * *

5.0 Destination Delivery Unit (DDU) Entry

* * * * *

5.2 Eligibility

Pieces in a mailing that meets the standards in 2.0 and 5.0 are eligible for the DDU price or DDU entry (as applicable) when deposited at a DDU, addressed for delivery within that facility's service area, and prepared as follows:

[Revise item 5.2a as follows:]

a. Marketing parcels eligible for and prepared as Product Samples in carrier route bundles, cartons, or sacks, and otherwise eligible for and claimed at a carrier route price under 443 and 445.

* * * * *

500 Additional Mailing Services

503 Extra Services

1.0 Extra Services for Express Mail

1.1 Available Services

* * * * *

1.1.2 Proof of Delivery

Proof of delivery information for Express Mail is available as follows:

[Revise the text of item 1.1.2a as follows:]

a. Individual requests by article number can be retrieved at *www.usps.com* or by calling 1–800–222–1811. A proof of delivery letter (signature data) is provided electronically via email or signature extract file as provided in 1.1.2b.

[Revise the text of item 1.1.2b. as follows:]

b. Bulk proof of delivery (7.0) is available only to mailers using Express Mail Manifesting service and is obtained in a signature extract file format.

* * * * *

2.0 Registered Mail

* * * * *

2.2 Basic Information About Registered Mail

* * * * *

2.2.5 Additional Services

[Revise the fourth sentence of 2.2.5 as follows:]

* * * Customers receiving bulk proof of delivery obtain signature data in a signature extract file format.* * *

* * * * *

5.0 Certificate of Mailing

* * * * *

5.1 Certificate of Mailing Fees

[Revise the text of 5.1 as follows:]

In addition to the correct postage, the applicable certificate of mailing fee must be paid for each article on Form 3817 or Form 3877 (5.2.3) and for duplicate copies (5.3.3). When postage evidencing indicia are used to pay the fee, they must bear the full numerical value of the amount paid in the imprint. See Notice 123—Price List.

* * * * *

5.4 Other Bulk Quantities—Certificate of Bulk Mailing

5.4.1 Certificate of Bulk Mailing Fees

[Revise 5.4.1 by adding a new last sentence as follows:]

* * * Mailers using Form 3606 with a permit imprint mailing also may pay certificate of mailing fees, at the time of mailing, by the same permit imprint.* * *

* * * * *

6.0 Return Receipt

* * * * *

6.2 Basic Information

* * * * *

6.2.1 Description

[Revise the second and fourth sentences of 6.2.1 as follows, and delete the current last two sentences of 6.2.1.]

* * * A mailer purchasing return receipt service at the time of mailing may choose to receive the return receipt by mail (Form 3811) or electronically (by email or by signature extract file format as provided in 7.0). * * * A mailer purchasing return receipt service after mailing will receive the proof of delivery record by email (electronic signature data) or by mail (Form 3811–A). * * *

* * * * *

6.2.3 Endorsement

[Revise the last sentence of 6.2.3 as follows:]

* * * No endorsement is required on mail for which electronic return receipt service is requested or is provided in bulk in a signature extract file format.

* * * * *

6.3 Obtaining Service

* * * * *

6.3.2 After Mailing

[Revise last sentence of the introductory text as follows:]

* * * Mailers may request a delivery record by completing Form 3811–A, paying the appropriate fee in 6.1.1, and submitting the request to the appropriate office as follows:

* * * * *

6.3.3 Time Limit

[Revise the text of 6.3.3 as follows:]

A request for a return receipt after mailing must be submitted within 2 years from the date of mailing.

* * * * *

6.5 Requests for Delivery Information

6.5.1 Receipt Not Received

[Delete the current last sentence of 6.5.1]

* * * * *

7.0 Bulk Proof of Delivery

7.1 Description

[Revise the current second sentence of the introductory text of 7.1 as follows:]

* * * The proof of delivery records are sent in a signature extract file format. * * *

* * * * *

9.0 Adult Signature

* * * * *

9.2 Basic Information

9.2.1 Description

[Revise the current third sentence of the introductory text of 9.2.1 as follows:]

* * * The USPS maintains a record of delivery (which includes the recipient's signature) for 2 years. * * *

* * * * *

9.2.5 Confirmation of Delivery

Confirmation of delivery information for Adult Signature is available as follows:

[Revise the text of item 9.2.5a as follows:]

a. Information by article number can be retrieved at *www.usps.com* or by calling 800–222–1811. A proof of delivery letter may be provided electronically (see 9.2.5b) or by email.

[Revise the second sentence of item 9.2.5b as follows:]

b. * * * Customers receiving bulk proof of delivery obtain signature data in a signature extract file format.

* * * * *

[Revise the title of 11.0 as follows:]

11.0 USPS Tracking/Delivery Confirmation

*[**Note:** Make global change to DMM regarding USPS Tracking/Delivery Confirmation.]*

* * * * *

12.0 Signature Confirmation

* * * * *

12.2 Basic Information

12.2.1 Description

[Revise the second sentence of the introductory text of 12.2.1 as follows:]

* * * A delivery record, including the recipient's signature, is maintained by the USPS and is available electronically or by email, upon request. * * *

* * * * *

[Revise the title of 15.0 as follows:]

15.0 IMb Tracing

15.1.1 General Information

[Revise the text of 15.1.1 as follows:]

IMb Tracing is available at no charge without a subscription. Requirements for participation in IMb Tracing are the use of the Intelligent Mail barcode, the use of a Mailer Identifier that has been registered (via the Business Customer Gateway, accessible on *usps.com*) to receive scan data, and verification by the Postal Service that the Intelligent Mail barcode (IMb) as printed meets all applicable postal standards.

15.1.2 Description of Service

[Revise the text of 15.1.2 as follows:]

IMb Tracing provides a mailer with data electronically collected from the scanning of barcoded mailpieces as they pass through automated mail processing operations. Scanned data can include the postal facility where such pieces are processed, the postal operation used to process the pieces, the date and time when the pieces are processed, and the numeric equivalent of a barcode(s) that helps to identify the specific pieces. Any piece intended to generate scanned data must meet the physical characteristics and standards in 15.0, although not every piece is guaranteed such data or complete data. This service does not provide proof of delivery.

* * * * *

15.2 Barcodes

15.2.1 General Barcode Requirements

[Revise the introductory text of 15.2.1 as follows:]

Each piece in a mailing that is intended to generate IMb Tracing information must bear an Intelligent Mail barcode under 15.2.2. Mailers must apply Intelligent Mail barcodes under 708.4.0 and the following standards:

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

* * * * *

4.0 Detached Address Labels (DALs) and Detached Marketing Labels (DMLs)

4.1 DAL and DML Use

* * * * *

[Revise the title and text of 4.1.3 as follows:]

4.1.3 Standard Mail Marketing Parcels—Product Samples

DALs or DMLs must be used with Standard Mail Marketing parcels mailed at targeted Product Sample prices and may be used with parcels mailed at saturation Product Sample prices.

* * * * *

4.3 Mail Preparation

* * * * *

4.3.2 Basic Standards for DALs

[Revise the fourth sentence of 4.3.2 as follows:]

* * * Mailers must prepare DALs as bundles in sacks or in cartons, unless prepared in trays under 4.3.7 when mailed with saturation flats or with Product Samples. * * *

* * * * *

4.3.3 Basic Standards for Items Distributed With DALs

[Revise the first sentence of 4.3.3 as follows:]

Except for bundles of saturation flats or Product Samples placed directly on pallets under 4.3.7, the items to be distributed with DALs must be placed in cartons or prepared in bundles placed in sacks, subject to the standards for the price claimed. * * *

* * * * *

4.3.6 Optional Tray and Bundle Preparation

[Revise the text of 4.3.6 as follows:]

Mailers may prepare DALs in letter trays according to 245.6.0 when DALs are used in mailings of saturation flats or Product Samples. Bundles of saturation flats and bundles of Product Sample parcels to be distributed with DALs may be prepared on 5-digit (and 5-digit scheme under L606 for parcels) pallets under 4.3.7. Do not use pallets when the Drop Shipment Product indicates the delivery unit that serves the 5-digit pallet destination cannot

handle pallets. For such delivery units, mail with DALs must be prepared in cartons or sacks. The tray(s) of corresponding DALs must be placed on top of the accompanying pallet of flats, and the pallet contents must be secured with stretchwrap to avoid separation in transportation and processing. All containers must be labeled according to 4.3.5.

4.3.7 Optional Container Preparation

[Revise the text of 4.3.7 as follows:]

Bundles of flats, bundles of Product Samples, and cartons or sacks of items may be placed on pallets meeting the standards in 705.8.0. Cartons or trays of DALs must be placed on pallets with the corresponding items under 4.3 and 705.8.0. The USPS plant manager at whose facility a DAL mailing is deposited may authorize other containers for the portion of the mailing to be delivered in that plant's service area.

* * * * *

4.5 Postage

* * * * *

4.5.2 Postage Computation and Payment

* * * In addition, these methods of postage payment apply:

* * * * *

[Revise item 4.5.2c as follows:]

c. A surcharge applies to each DAL (including DMLs) used in a Standard Mail flats mailing and to each DAL (or DML) used with pieces mailed at Standard Mail Product Sample saturation parcel prices.

* * * * *

604 Postage Payment Methods

1.0 Stamps

1.1 Postage Stamp Denominations

Postage stamps are available in the following denominations:

[Revise the table in 1.1 as follows:]

Type and format	Denomination
Regular Postage:	
Panes	$0.01, .02, .03, .04, .05, .10, .20, $1, $2, $5, $10. In addition, panes of stamps for the current First-Class Mail (FCM) single-piece 1-ounce letter price, FCM 2-ounce letter price, FCM 3-ounce letter price, Priority Mail flat-rate envelope price, and Express Mail flat-rate envelope price.
Booklets of 10 or 20 stamps	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 50	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 100	$0.20, .32, and the current First-Class Mail single-piece 1-ounce letter price.
Coils of 3,000	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 10,000	$0.01, .02, .03, .04, .05, .10, and coils of the current First-Class Mail single-piece 1-ounce letter price.
Precanceled Presorted Price Postage—First-Class Mail and Standard Mail:	
Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders).
Commemoratives:	
Panes of up to 20 stamps and 20-stamp booklets.	The current First-Class Mail single-piece 1-ounce letter price and other denominations.
Semipostal:	
Breast Cancer Research & Save Vanishing Species.	Purchase price of $0.55; postage value equivalent to First-Class Mail single-piece 1-ounce letter price; remainder, minus reasonable costs incurred by the Postal Service, is contributed to fund specified causes.
Forever Stamp (Nondenominated):	
Panes of up to 20	The current First-Class Mail 1-ounce letter price.
20-Stamp Booklets	The current First-Class Mail 1-ounce letter price.
18-Stamp Sheetlets	The current First-Class Mail 1-ounce letter price.
Coils of 100	The current First-Class Mail 1-ounce letter price.

* * * * *

1.11 Additional Standards for Semipostal Stamps

Semipostal stamps are subject to the following special conditions:

* * * * *

[Revise item 1.11b as follows:]

b. The following semipostal stamps are available for sale:

1. The *Breast Cancer Research* semipostal stamp. The difference between the purchase price and the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase constitutes a contribution to breast cancer research and cannot be used to pay postage. Funds (net of reasonable USPS costs) from the sale of the Breast Cancer Research semipostal stamp are transferred to the Department of Defense and the National Institutes of Health.

2. The *Save Vanishing Species*™ semipostal stamp. The difference between the purchase price and the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase constitutes a contribution to the Multinational Species Conservation Funds. Funds (net of reasonable USPS costs) from the sale of the *Save Vanishing Species* semipostal stamps are transferred to the United States Fish and Wildlife Service.

c. The postage value of each semipostal stamp is the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase. Additional postage must be affixed to pieces weighing in excess of 1 ounce, pieces subject to the nonmachinable surcharge, or pieces for which extra services have been requested. The postage value of semipostal stamps purchased before any subsequent change in the First-Class Mail single-piece first-ounce letter price is unaffected by any subsequent change in that price. The purchase price is listed in 1.1.

* * * * *

5.0 Permit Imprint (Indicia)

* * * * *

5.4 Picture Permit Imprint Indicia

5.4.1 Description

[Revise the text of 5.4.1 as follows:]

Picture permit imprint indicia may contain business-related color images, such as corporate logos, brand, trademarks and other pictorial business images. These images are known as picture permit imprints. Picture permit

imprints may be used to pay postage and extra service fees on commercial mailings of full-service automation First-Class Mail or Standard Mail postcards, letters, or flats.

* * * * *

5.4.5 Picture Permit Imprint Indicia Format

[Revise the introductory text of 5.4.5 as follows:]

As options to the basic format under 5.3.11 and if all other applicable standards in 5.0 are met, permit imprint indicia may be prepared in picture permit imprint format subject to these conditions:

* * * * *

[Revise item 5.4.5f as follows:]

f. Commercial mailings of First-Class Mail and Standard Mail postcards, letters or flats bearing picture permit indicia must be prepared as IMb full-service automation mailings under 705.24.0. Residual mailpieces that result from a mailer's normal preparation of the full-service IMb mailing also can be mailed bearing a picture permit imprint and not be paid at the full-service price.

* * * * *

608 Postal Information and Resources

* * * * *

8.0 USPS Contact Information

8.1 Postal Service

* * * * *

[Revise 8.1 by renaming the reference ''Post Office Accounting Manager, U.S. Postal Service, 475 L'Enfant Plz SW., Rm 8831, Washington DC 20260–5241'' as follows:]

Corporate Accounting Manager
U.S. Postal Service
475 L'Enfant PLZ SW., RM 8831
Washington DC 20260–5241

* * * * *

[Revise 8.1 by replacing the address for reference ''National Customer Support Center, U.S. Postal Service, 6060 Primacy Pkwy Ste 201, Memphis TN 38188–0001'' as follows:]

National Customer Support Center
U.S. Postal Service
225 N. Humphreys Blvd., Ste 501
Memphis, TN 38188–1001

* * * * *

[Revise 8.1 by renaming the reference ''Postage Technology Management, U.S. Postal Service, 475 L'Enfant Plz SW., Rm 3660, Washington DC 20260–4110'' as follows:]

Payment Technology
U.S. Postal Service
475 L'Enfant PLZ SW., RM 3660
Washington DC 20260–4110

* * * * *

609 Filing Indemnity Claims for Loss or Damage

* * * * *

1.0 General Filing Instructions

* * * * *

1.5 Where To File

A claim may be filed:

[Revise item 1.5b by deleting the second sentence and revising the first sentence as follows:]

* * * * *

b. Online at *www.usps.com/insuranceclaims/online.htm* for domestic insured mail, Express Mail, COD and Registered Mail.

* * * * *

700 Special Standards

703 Nonprofit Standard Mail and Other Unique Eligibility

* * * * *

6.0 Official Mail (Franked)

6.1 Basic Information

* * * * *

[Renumber current 6.1.3 through 6.1.7 as new 6.1.4 through 6.1.8:]

[Add a new 6.1.3 as follows:]

6.1.3 Vice President-Elect

The Vice President-elect of the United States may send franked mail in connection with preparations for assuming official duties as Vice President. If the Vice President-elect is authorized/eligible to use penalty mail, the right to use penalty mail ceases immediately on inauguration to the vice presidency.

* * * * *

7.0 Official Mail (Penalty)

* * * * *

7.3 Eligibility

* * * * *

[Delete 7.3.5, Vice President-Elect, in its entirety]

* * * * *

7.4 Authorization

7.4.1 Authorized Agencies

[Add a new second sentence and revise the last sentence in 7.4.1 as follows:]

* * * New locations or departments under these agencies must obtain approval from the Agency Mail Manager before using penalty mail. Other agencies may request authorization to use penalty mail by writing to the Corporate Accounting Manager, USPS Headquarters (608.8.0).

* * * * *

7.4.4 Private Use

[Revise the first sentence of 7.4.4 as follows:]

Unless permitted by USPS standards, an agency may not lend or provide penalty envelopes, cards, cartons, labels, or meter stamps to any private person, concern, or organization. * * *

7.4.5 Permit and BRM Numbers

[Revise 7.4.5 as follows:]

Penalty mail permit imprint or BRM numbers, or information to help agencies track and account for penalty mail postage by cost center, may be obtained by written request to the Corporate Accounting manager, USPS Headquarters (608.8.0).

* * * * *

7.5 Services, Classes, Prices, Preparation, and Detention

* * * * *

7.5.3 Basic Preparation

Penalty mail must:

* * * * *

[Revise item 7.5.3d as follows:]

d. Be endorsed for class or price except for single-piece price First-Class Mail.

* * * * *

7.5.7 Military Units

Military units engaged in hostile operations or operating under arduous conditions may be authorized to use a special form of postage-due penalty mail, subject to these conditions:

* * * * *

[Revise item 7.5.7e as follows:]

e. The Military Postal Service Agency must notify the Corporate Accounting manager, USPS Headquarters (608.8.0), within three business days after implementing these provisions.

* * * * *

7.5.9 Mail Detention

[Revise the second sentence of 7.5.9 as follows:]

* * * Reports of indicated abuse are submitted to the Pricing Classification Service Center (PCSC) (608.8.0) for referral to the proper agency for investigation and action.

7.6 General Standards for Penalty Indicia

7.6.1 General

[Revise 7.6.1 as follows:]

The formats and methods of mailing penalty mail are penalty metered mail, penalty permit imprint mail, penalty Periodicals imprint mail, and penalty reply mail. There are also special procedures for penalty Express Mail. All

penalty mail matter must meet the applicable standards in 7.6 through 7.15.

7.6.2 Use

Envelopes and labels prepared under these standards may be used only to transmit penalty mail within the U.S. Mail, except when:

* * * * *

[Revise item 7.6.2c as follows:]

c. Agencies reach written agreement with the Corporate Accounting Manager, USPS Headquarters (608.8.0), to account for and pay postage on official items carried outside the U.S. Mail (18 U.S.C. 1693–1699 and 39 U.S.C. 601–606).

7.7 Penalty Meter

* * * * *

7.7.5 Refunds for Unused Penalty Meter Indicia

[Revise the first sentence of 7.7.5 as follows:]

Refunds for complete, legible, valid, unused penalty mail meter indicia are made under 604.9.0. * * *

* * * * *

7.7.10 Computerized Meter Resetting

[Revise the first sentence of 7.7.10 as follows:]

An agency may use a penalty mail version of the authorized postage meter payment process for remotely reset meters if it is offered by one of the USPS-authorized postage meter providers. * * *

* * * * *

7.8 Penalty Permit Imprint

7.8.1 Application

[Revise the fourth sentence of 7.8.1 as follows:]

* * * When the agency receives authorization to use a penalty permit imprint number, the authorization from the Corporate Accounting Manager, USPS Headquarters (608.8.0), must be submitted with Form 3615 to the Post Office where mailings will be entered. * * *

* * * * *

7.8.5 GPO Contractor

As an exception to the general standard in 7.8.5, an agency mailing submitted by a GPO contractor may contain nonidentical-weight pieces or more than one class of mail, if:

* * * * *

[Revise item 7.8.5c as follows:]

c. A completed postage statement appropriate for each class of mail is submitted to the entry Post Office for each mailing, in duplicate if the contractor wants a copy.

[Delete current item 7.8.5d and redesignate current item 7.8.5e as new item 7.8.5d.]

* * * * *

7.9 Penalty Postage Stationery

* * * * *

7.9.7 Exchanges

[Revise 7.9.7 as follows:]

Incorrectly shipped items or items damaged in shipping or defective or otherwise unserviceable may be exchanged as provided in 604.9.

* * * * *

7.12 Penalty Merchandise Return Service

* * * * *

7.12.4 Application

[Revise the first sentence of 7.12.4 as follows:]

An agency must apply by letter to the Corporate Accounting Manager, USPS Headquarters (608.8.0), to use merchandise return labels. * * *

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

8.0 Preparing Pallets

* * * * *

8.10 Pallet Presort and Labeling

8.10.1 First-Class Mail—Letter or Flat Trays

* * * Preparation, sequence, and labeling:

* * * * *

[Revise the second sentence of the introductory paragraph of item 10.1b as follows:]

b. * * * Mailers may place AADC or ADC trays on origin SCF pallets when the tray's ''label to'' 3-digit ZIP Code (from L801 for AADC trays and L004 for ADC trays) is within the origin SCF's service area; and must place trays containing pieces paid at the single-piece price on origin SCF pallets, unless required to be presented separately by special postage payment authorization or customer service agreement (CSA). * * *

* * * * *

[Revise item 10.1b2 as follows:]

2. Line 2: ''FCM LTRS'' or ''FCM FLTS,'' followed by ''WKG.''

* * * * *

8.10.3 Standard Mail or Parcel Select Lightweight—Bundles, Sacks, or Trays

* * * * *

[Revise the current third sentence and add a new fourth sentence of the introductory text as follows:]

* * * For parcels, use this preparation only for irregular parcels in sacks or Marketing parcels prepared as Product Samples in carrier route bundles, sacks or cartons. For Product Samples, only 5-digit pallets under 8.10.3b and 3-digit pallets under 8.10.3d are allowed, and the pallets must be entered under DNDC or DSCF standards only. * * * Preparation sequence and labeling:

[Revise item 8.10.3a as follows:]

a. *5-digit scheme carrier routes, required,* permitted for bundles of flats only. Pallet must contain only carrier route bundles for the same 5-digit scheme under L001. Labeling:

1. Line 1: L001.

2. Line 2: ''STD'' followed by ''FLTS''; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''SCHEME'' (or ''SCH'').

[Revise item 8.10.3b as follows:]

b. *5-digit carrier routes, required except for trays,* permitted for bundles, sacks, trays, and cartons. Pallet must contain only carrier route mail for the same 5-digit ZIP Code. Labeling:

1. Line 1: city, state, and 5-digit ZIP Code destination (see 8.6.4c for overseas military mail).

2. Line 2: For flats and Marketing parcels (Product Samples only), ''STD FLTS'' or ''STD MKTG,'' as applicable; followed by ''CARRIER ROUTES'' (or ''CR–RTS''). For letters, ''STD LTRS''; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''BC'' if pallet contains barcoded letters; followed by ''MACH'' if pallet contains machinable letters; followed by ''MAN'' if pallet contains nonmachinable letters.

* * * * *

[Revise item 8.10.3d as follows:]

d. *3-digit, optional,* option not available for parcels other than Product Sample parcels or for bundles for 3-digit ZIP Code prefixes marked ''N'' in L002. Pallet may contain mail for the same 3-digit ZIP Code or the same 3-digit scheme under L008 (for automation-compatible flats only under 301.3.0. Three-digit scheme bundles are assigned to pallets according to the ''label to'' 3-digit ZIP Code in L008. Labeling:

1. Line 1: L002, Column A.

2. Line 2: For flats, ''STD'' followed by ''FLTS;'' followed by ''3D''; followed by ''BARCODED'' (or ''BC'') if pallet contains automation price mail; followed by ''NONBARCODED'' (or ''NBC'') if pallet contains carrier route and/or Presorted price mail. For letters, ''STD LTRS 3D''; followed by ''BC'' if pallet contains barcoded letters;

followed by ''MACH'' if pallet contains machinable letters; followed by ''MAN'' if pallet contains nonmachinable letters. For Marketing parcels (Product Samples only), use ''STD MKTG.''

* * * * *

[Revise the introductory paragraph of item 10.3h as follows:]

h. *Mixed NDC, optional,* permitted for sacks and trays only. Pallet may contain carrier route, automation, and/or Presorted mail. Mailers must place trays containing pieces paid at the single-piece price on the mixed NDC pallet (unless required to be presented separately by special postage payment authorization). Labeling: * * *

* * * * *

[Add new item 26.0 as follows:]

26.0 Alaska Bypass Service

26.1 Prices

Alaska Bypass Service prices are calculated based on the zone to which the shipment is addressed and the weight of the shipment. See Notice 123—Price List for prices.

26.2 Price Eligibility

Requirements for Alaska Bypass Service are as provided in Handbook PO 508.

* * * * *

707 Periodicals

1.0 Prices and Fees

* * * * *

1.4 Fees

[Revise the text of 1.4 as follows:]

Periodicals fees are per application for original entry, news agent registry, and reentry. See Notice 123—Price List.

* * * * *

3.0 Physical Characteristics and Content Eligibility

* * * * *

3.2 Addressing

* * * * *

3.2.3 Return Address

[Revise the text of 3.2.3 as follows:]

The return address must appear on any mailing wrapper (see 3.3.7).

* * * * *

3.3.7 Mailing Wrapper

[Revise the first sentence of 3.3.7 as follows:]

A mailing wrapper is an envelope, sleeve, partial wrapper, polywrap, or carton used to enclose the mailpiece. * * *

* * * * *

3.6 Printed Features

3.6.1 Publication Title and Address Notice

[Revise the second and third sentences of 3.6.1 as follows:]

* * * The title or the name and address of the publisher must be displayed prominently on any mailing wrapper (see 3.3.7). The publication title, followed immediately by the USPS publication number (or ISSN if one has been assigned), and the mailing address to which undeliverable copies or change-of-address notices are to be sent may be shown directly on the outside of the host publication if it can be read when the mailing wrapper is in place or in the upper left corner of the address side of a mailing wrapper (see 3.3.7). * * *

3.6.2 Periodicals Imprint

[Revise the first sentence of 3.6.2 as follows:]

Mailing wrappers (see 3.3.7) that completely enclose the host publication must bear the Periodicals imprint ''Periodicals Postage Paid at * * *'' or the word ''Periodicals'' in the upper right corner of the address area. * * *

* * * * *

6.0 Qualification Categories

* * * * *

6.4 Requester Publications

6.4.1 Basic Standards

A publication, whether circulated free or to subscribers, may be authorized Periodicals prices if it meets the basic standards in 4.0 and:

[Revise item 6.4.1b as follows:]

b. Contains more than 75% advertising in no more than 25% of the issues published during any 12-month period.

* * * * *

[Revise the title and text of 30.0 as follows:]

30.0 Additional Mailing Offices

30.1 Basic Standards

30.1.1 Facility

The additional mailing office must be a Post Office.

30.1.2 Definition

Except for publications authorized an alternative payment method, the verification Post Office is also the office where Periodicals postage is paid.

30.1.3 Postage

Postage must be prepaid or available for all copies presented for verification at an additional mailing office before the mail can be released.

30.2 Additional Standards

Approved Periodicals publishers may present mail at any additional mailing office that is linked to *PostalOne!.* Publishers who wish to present Periodicals for verification at additional mailing offices without access to *PostalOne!* must file a PS Form 3510A application indicating that mailings will be presented at these offices. Publications pending approval must submit PS Form 3510A applications with their original entry application for all mailing offices where mail will be submitted during the pending period.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

* * * * *

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–25995 Filed 10–22–12; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0610; FRL–9741–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions pertain to the adoption of various test methods, calculations methods, work practice standards and exemptions which make Maryland Department of the Environment (MDE) regulations more consistent with the EPA's Control Techniques Guidelines (CTGs) for seven source categories. These categories are: Paper, film, and foil coatings; industrial cleaning solvents; miscellaneous metal and plastic parts coatings; large appliance coatings; offset lithographic printing and letterpress printing; flat wood paneling coatings and flexible package printing. This action is being taken under the Clean Air Act (CAA).

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

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0610 by one of the following methods:

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

B. *Email: mastro.donna@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0610, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2012–0610. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis, (215) 814–2037, or by email at *lewis.jacqueline@epa.gov.*

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

I. Background

The Clean Air Act (CAA) section 172(c)(1) provides that SIPs for nonattainment areas must include ''reasonably available control measures'' (RACM), including ''reasonably available control technology '' (RACT), for sources of emissions. Section 182(b)(2)(A) of the CAA provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of volatile organic compounds (VOC) emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment.

EPA develops CTGs as guidance on control requirements for specific source categories. The CTGs are intended to provide state and local air pollution control authorities information that should assist them in determining RACT for VOC. The State of Maryland through MDE submitted revisions to its SIP to address the following RACT source categories: (1) Paper, film, and foil coatings; (2) industrial cleaning solvents; (3) miscellaneous metal and plastic parts coatings; (4) large appliance coatings; (5) offset lithographic printing and letterpress printing; (6) flat wood paneling coatings; and (7) flexible package printing.

In 1977, 1978, 1993 and 1994, EPA developed CTGs for all the source categories listed above, and in 2006, 2007 and 2008, EPA developed new CTGs for these source categories after conducting a review of existing state and local VOC emission reduction approaches for these industries, reviewing the original CTGs, and taking into account the information that has become available since original development. EPA's new CTGs are entitled *Control Techniques Guidelines for Paper, Film, and Foil Coatings* (EPA 453/R–07–003, September 2007), *Control Techniques Guidelines: Industrial Cleaning Solvents* (EPA 453/R–06–001, September 2006), *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings* (EPA–453/R–08–003, September 2008), *Control Techniques Guidelines for Large Appliance Coatings* (EPA 453/R–07–004, September 2007), *Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing* (EPA–453/R–06–002, September 2006), *Control Techniques Guidelines for Flat Wood Paneling Coatings* (EPA 453/R–06–004, September 2006), and *Control Techniques Guidelines for Flexible Package Printing* (EPA 453/R–06–003, September 2006). These new CTGs include new general requirements along with testing, work practice, and recordkeeping requirements.

II. Summary of SIP Revision

On April 5, 2012, EPA received a SIP revision from MDE which addressed sources of VOC emissions covered by EPA's CTGs for the seven source categories identified above and which includes amendments to COMAR 26.11.01.04 and COMAR 26.11.19.02.

A. Amendments to Regulation .04 Testing and Monitoring Under COMAR 26.11.01 General Administrative Provisions

The new amendments to COMAR 26.11.01.04C provide updated provisions for the test methods that are referenced under COMAR 26.11.19.02D. These amendments incorporate by reference federal methods under Section C (Emissions Test Methods) and include: (1) 40 CFR Part 60, Appendix A, as amended; (2) MDE's Technical Memorandum 91–01, ''Test Methods and Equipment Specifications for Stationary Sources,'' January 1991, as amended through Supplement 3 (October 1, 1997); and (3) for course particulate matter (PM_{10}) stack tests (a) Test Methods 201 A and 202 in 40 CFR Part 51, Appendix M, as amended; (b) Test Method 5 (40 CFR Part 60, Appendix A, as amended) and Test Method 202 in 40 CFR Part 51, Appendix M, as amended; (c) Test Method 5 (40 CFR Part 60, Appendix A, as amended) using front half and back half procedure; (d) EPA Conditional Test Method 39 as a substitute for Test Method 202 in 40 CFR Part 51, Appendix M, as amended; or (e) Alternative test methods for PM_{10} if they are approved by MDE and the EPA.

B. Amendments to Regulation .02 Applicability, Determining Compliance, Reporting and General Requirements Under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes

The amendments to COMAR 26.11.19.02(D), (E), and (I) apply to sources covered by the CTG categories and other regulations covered under COMAR 26.11.19 involving testing, cleaning solutions, solvents, or degreasing materials. These amendments make the requirements more consistent with EPA's CTG guidance for alternative test methods, calculation methods, and work practice standards.

COMAR 26.11.19.02(D) (Test Methods) establishes methods, procedures and requirements for the alternative testing of control devices. The revision amends COMAR 26.11.19.02(D)(2) by requiring sources that use air pollution control equipment to comply with the requirements of COMAR 26.11.19 make the determination in accordance with COMAR 26.11.01.04(C). The revision also adds COMAR 26.11.19.02(D)(3) requiring MDE and EPA approval if a source chooses to determine compliance using alternative test methods.

COMAR 26.11.19.02(E) (Computations) establishes methods, procedures and requirements for calculations needed to determine compliance with regulations covered under COMAR 26.11.19. The addition of COMAR 26.11.19.02(E)(3) establishes the method required to determine composite vapor pressure of solvent cleaning material. The addition of COMAR 26.11.19.02(E)(4) establishes the method to determine mass VOC to mass solids applied for coatings, adhesives, or inks. The addition of COMAR 26.11.19.02(E)(5) establishes the method to determine the weight of VOC in units of weight VOC per weight coating applied for coatings, adhesives, or inks.

The amendment to COMAR 26.11.19.02(G) (Control of Major Stationary Sources of Volatile Organic Compounds) exempts additional VOC RACT regulations that had not been adopted since 1991. The regulation now exempts major stationary sources that are subject to COMAR 26.11.10, COMAR 26.11.11, COMAR 26.11.13, COMAR 26.11.14, and COMAR 26.11.19.03-.33.

COMAR 26.11.19.02(I) (Good Operating Practices, Equipment Cleanup, and VOC Storage) adds additional work practice requirements for the handling of cleaning material. This revision adds three additional good operating practice requirements to the previous five requirements under COMAR 26.11.19.02(I)(2)(b). They include minimizing spills of VOC-containing cleaning materials, minimizing VOC emissions from cleaning of storage, mixing, and conveying equipment and also requiring closed containers or pipelines be used to transport VOC-containing cleaning materials from one location to another.

A detailed summary of EPA's review and rationale for proposing to approve this SIP revision may be found in the Technical Support Document (TSD) for this action which is available on line at *http://www.regulations.gov,* Docket number EPA–R03–OAR–2012–0610.

III. Proposed Action

EPA is proposing to approve Maryland's SIP revision submitted April 5, 2012, amending Regulation .04 Testing and Monitoring under COMAR 26.11.01 General Administrative Provisions and Regulation .02 Applicability, Determining Compliance, Reporting and General Requirements under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes for adoption of various test methods, calculations methods, work practice standards, and exemptions in accordance with CTGs for VOC RACT. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order

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

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

In addition, this proposed rule concerning Maryland's adoption of various test methods, calculations methods, work practice standards and exemptions in accordance with CTGs for VOC RACT does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: October 02, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–25556 Filed 10–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005 [FRL–9742–9]]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Torch Lake Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule: notice of intent.

SUMMARY: The Environmental Protection Agency Region 5 is issuing a Notice of Intent for Partial Deletion of the Isle Royale Stamp Tailings and Michigan Smelter Tailings parcels of OU3 and the Mason Sands parcel of OU1 of the Torch Lake Superfund Site (Site) located in Houghton County, Michigan, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface tailings, drums and slag piles of Isle Royale and Michigan Smelter tailings parcels of OU3 and the Mason Sands parcel of OU1. The following parcels will remain on the NPL and are not being considered for deletion as part of this action: Dollar Bay, Point Mills, Calumet Lake Tailing, Boston Pond Tailings, North Entry and Quincy Smelter.

DATES: Comments must be received by November 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov*: Follow online instructions for submitting comments.
- *Email:* Nefertiti DiCosmo, Remedial Project Manager, at *dicosmo.nefertiti@epa.gov* or David Novak, Community Involvement Coordinator, at *novak.david@epa.gov*.
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 697–2077.
- *Mail:* Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148; or Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–7478 or (800) 621–8431.
- *Hand deliver:* Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours 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–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM 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 *http://www.regulations.gov* index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency—Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday, through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.
- Lake Linden/Hubbell Public Library, 601 Calumet Street, Lake Linden, MI 49945, Phone: (906) 482–0698, Hours: Monday, Wednesday and Friday, 8:00 a.m. to 4:00 p.m., Tuesday and Thursday 6:00 p.m. to 8:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148, or *dicosmo.nefertiti@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Partial Deletion of the Isle Royale Tailings and Michigan Smelter Tailings parcels of OU3 and Mason Sand parcel of OU1 of the Torch Lake Superfund Site without prior Notice of Intent for Partial Deletion because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice for Partial Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent for Partial Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice for Partial Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Partial Deletion based on this Notice of Intent for Partial Deletion. We will not institute a second comment period on this Notice of Intent for Partial Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Partial Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances,

Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, and Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: September 19, 2012.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2012–25965 Filed 10–22–12; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–11, 301–74, Appendix E to Chapter 301, 304–3, and 304–5

[FTR Case 2012–301; Docket 2012–0011, Sequence 1]

RIN 3090–AJ27

Federal Travel Regulation; Removal of Conference Lodging Allowance Provisions

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Travel Regulation (FTR) by removing the conference lodging allowance reimbursement option for employees on temporary duty (TDY) travel.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before December 24, 2012 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FTR Case 2012–301 by any of the following methods:

- *Federal eRulemaking Portals: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FTR Case 2012–301''. Select the link ''Submit a Comment'' that corresponds with ''FTR Case 2012–301.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FTR Case 2012–301'' on your attached document.
- *Fax:* 202–208–1398.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., 7th Floor, Attn: Hada Flowers, Washington, DC 20417.

Instructions: Please submit comments only and cite FTR case 2012–301 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Cy Greenidge, Program Analyst, Office of Governmentwide Policy, at 202–219–2349. Please cite FTR case 2012–301. The Regulatory Secretariat (MVCB), 1275 First Street NE., 7th Floor, Attn: Hada Flowers, Washington, DC 20417, 202–501–4755, for information pertaining to status or publication schedules.

SUPPLEMENTARY INFORMATION:

A. Background

The conference lodging allowance allows travelers to exceed the maximum lodging per diem rate by up to 25 percent when attending conferences sponsored by a Federal agency. Unlike the actual expense provision which mandates that an agency official must approve these requests, there is no such mandate for allowing the use of the conference lodging allowance. To allow agencies to get a firmer grasp on how their travel dollars are used, GSA is proposing to remove the conference lodging allowance provision from the FTR.

B. Executive Order 12866 and Executive Order 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 Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This proposed 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 revisions are not considered substantive. This proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. However, this proposed rule is being published to provide transparency in the promulgation of Federal policies.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–11, 301–74, Appendix E to Chapter 301, 304–3, and 304–5

Administrative practices and procedures, Government employees, Travel and per diem expenses, Acceptance of travel and related expenses from non-Federal sources.

Dated: June 22, 2012.

Dan Tangherlini,

Acting Administrator of General Services.

For the reasons set forth in the preamble, pursuant to 5 U.S.C. 5701–5709 and 31 U.S.C. 1353, GSA proposes to amend 41 CFR parts 301–11, 301–74, Appendix E to Chapter 301, 304–3, and 304–5 as set forth below:

PART 301–11—PER DIEM EXPENSES

1. The authority citation for 41 CFR part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–11.5 [Amended]

2. Amend § 301–11.5 by—

a. Adding the word ''or'' at the end of paragraph (b);

b. Removing paragraph (c); and

c. Redesignating paragraph (d) as paragraph (c).

PART 301–74—CONFERENCE PLANNING

3. The authority citation for 41 CFR part 301–74 continues to read as follows:

Authority: 5 U.S.C. 5707.

4. Revise § 301–74.6 to read as follows:

§ 301–74.6 What can we do if we cannot find an appropriate conference facility at the chosen locality per diem rate?

While it is always desirable to obtain lodging facilities within the established lodging portion of the per diem rate for the chosen locality, it may not always be possible. In those instances when lodging is not available at the applicable per diem rate, travelers should construct a cost comparison of all associated costs, including round-trip ground transportation, between finding lodging at the applicable per diem rate away from the conference locality and using the actual expense method at the conference locality as prescribed in Subpart D of Part 301–11 of this chapter.

§§ 301–74.7 through 301–74.10, 301–74.12, 301.74–22, and 301–74.23 [Removed]

5. Remove §§ 301–74.7 through 301–74.10, 301–74.12, 301.74–22, and 301–74.23.

§§ 301–74.11, 301–74.13 through 301–74.19, and 301–74.24 through 301–74.26 [Redesignated as §§ 301–74.7, 301–74.8 through 301–74.14, and 301–74.22 through 301–74.24]

6. Redesignate §§ 301–74.11, 301–74.13 through 301–74.19, and 301–74.24 through 301–74.26 as §§ 301–74.7, 301–74.8 through 301–74.14, and 301–74.22 through 301–74.24, respectively. A redesignation table is set forth below for the convenience of the reader:

Old section No.	Redesignated section No.
301–74.11	301–74.7
301–74.13	301–74.8
301–74.14	301–74.9
301–74.15	301–74.10
301–74.16	301–74.11
301–74.17	301–74.12
301–74.18	301–74.13
301–74.19	301–74.14
301–74.24	301–74.22
301–74.25	301–74.23
301–74.26	301–74.24

§ 301–74.9 [Amended]

7. Amend the newly redesignated § 301–74.9 in the first sentence by removing ''§ 301–74.15'' and adding ''§ 301–74.10'' in its place.

§ 301–74.10 [Amended]

8. Amend the heading to the newly redesignated § 301–74.10 by removing ''§ 301–74.14'' and adding ''§ 301–74.9'' in its place.

9. Revise the newly designated § 301–74.11 to read as follows:

§ 301–74.11 What must be included in any advertisement or application form relating to conference attendance?

Any advertisement or application for attendance at a conference described in 301–74.9 must include notice of the prohibition against using a non-FEMA approved place of public accommodation for conferences. In addition, any executive agency, as defined in 5 U.S.C. 105, shall notify all non-Federal entities to which it provides Federal funds of this prohibition.

§ 301–74.12 [Amended]

10. Amend the newly redesignated § 301–74.12 by removing from the Note ''§ 301–74.17(a)'' and adding ''§ 301–74.12(a)'' in its place.

11. Revise the newly designated § 301–74.22 to read as follows:

§ 301–74.22 When should actual expense reimbursement be authorized for conference attendees?

You may authorize actual expenses under § 301–11.300 of this chapter when the applicable lodging rate is inadequate.

Appendix E to Chapter 301 [Amended]

12. Amend Appendix E to Chapter 301 by—

a. Under the heading ''Terms'' by removing the paragraph ''Conference lodging allowance: The rate that is up to 25 percent above the established lodging per diem rate.''; and

b. Under the heading ''Notification,'' subheading ''Announcement and/or Invitations,'' by removing the paragraph ''Notice that conference lodging allowance applies if applicable.''

PART 304–3—EMPLOYEE RESPONSIBILITY

13. The authority citation for 41 CFR part 304–3 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–3.11 [Amended]

14. Amend § 304–3.11—

a. In the heading by removing ''(per diem, actual expense, or conference lodging)'' and adding ''(per diem or actual expense)'' in its place; and

b. In the introductory paragraph by removing ''(per diem, actual expense, or conference lodging)'' and adding ''(per diem or actual expense)'' in its place.

PART 304–5—AGENCY RESPONSIBILITIES

15. The authority citation for 41 CFR part 304–5 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–5.4 [Amended]

16. Amend § 304–5.4—

a. In the heading by removing ''(per diem, actual expense, or conference lodging)'' and adding ''(per diem or actual expense)'' in its place; and

b. In paragraph (a), in the introductory paragraph by removing ''(per diem, actual expense, or conference lodging)'' and adding ''(per diem or actual expense)'' in its place.

[FR Doc. 2012–25893 Filed 10–22–12; 8:45 am]

BILLING CODE 6820–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–271; RM–11678; DA 12–1556]

Radio Broadcasting Services; Pike Road, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Alatron Corporation, Inc., proposing the allotment of Channel 228A at Pike Road, Alabama, as the community's second local service. A staff engineering analysis indicates that Channel 228A can be allotted to Pike Road consistent with the minimum distance separation requirements of the Rules with a site restriction 4.8 kilometers (3.0 miles) south of the community. The reference coordinates are 32–14–29 NL and 86–06–40 WL.

DATES: Comments must be filed on or before November 19, 2012, and reply comments on or before December 4, 2012.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Robert E. Williams, President, Alatron Corporation, Inc., P.O. Box 110, Clanton, Alabama 35046.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No.12–271, adopted September 27, 2012, and released September 28, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–

B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *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).

Provisions of the Regulatory Flexibility Act of l980 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 Alabama, is amended by adding Pike Road, Channel 228A.

[FR Doc. 2012–25939 Filed 10–22–12; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 77, No. 205

Tuesday, October 23, 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

Office of the Secretary

Cancellation of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of intent to cancel meeting.

SUMMARY: The meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board scheduled for October 23–25, 2012 has been cancelled. The original meeting notice was published in **Federal Register** Volume 77, Number 186, (Tuesday, September 25, 2012) {Pages 58978–58979} [FR Doc No: 2012–23610].

FOR FURTHER INFORMATION CONTACT: J. Robert Burk, Executive Director or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *Robert.Burk@usda.gov* or *Shirley.Morgan@ars.usda.gov*.

SUPPLEMENTARY INFORMATION: A meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board scheduled to take place at the Phoenix Park Hotel, 520 North Capitol Street NW., Washington, DC 20001 on October 23–25, 2012 has been cancelled.

Done at Washington, DC, this 10th day of October 2012.

Catherine Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2012–25928 Filed 10–22–12; 8:45 am]

BILLING CODE 3410–03–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 Institute of Standards and Technology (NIST).

Title: SURF (Summer Undergraduate Research Fellowship) Program Student Application Information.

OMB Control Number: 0693–0042.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 300.

Average Hours per Response: 1 hour.

Burden Hours: 300.

Needs and Uses: The SURF Program provides an opportunity for the NIST laboratories and the National Science Foundation (NSF) to join in a partnership to encourage outstanding undergraduate students to pursue careers in science and engineering. The Program also provides research opportunities for students to work with internationally known NIST scientists, to expose them to cutting-edge research, and promote the pursuit of graduate degrees in science and engineering. The information is used for evaluation and selection, and includes: Student's name, host institution, email address/contact information, home address, class standing, first- and second-choice NIST laboratories they wish to apply to, academic major (minor), current overall grade point average, need for housing and gender (for housing purposes only), availability dates, resume, personal statement of commitment and research interests, two letters of recommendation, academic transcripts, verification of U.S. citizenship or permanent legal residency, and verification of health coverage.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

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 Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395–5167, or via the Internet at *Jasmeet_K_Seehra@omb.eop.gov*.

Dated: October 18, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–26032 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Membership of the Economic Development Administration Performance Review Board

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice of Membership on the Economic Development Administration's Performance Review Board Membership.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the Economic Development Administration (EDA), Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of EDA's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and rating of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for EDA's Performance Review Board begins on October 23, 2012.

FOR FURTHER INFORMATION CONTACT: Ronda L. Holbrook, U.S. Department of Commerce, Human Resources Operations Center (DOCHROC), Office of Executive Resources Operations, 14th and Constitution Avenue NW., Room 7419, Washington, DC 20230, at (202) 482–5243.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the Economic Development Administration (EDA), Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of EDA's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and rating of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for EDA's Performance Review Board begins on October 23, 2012. The name, position title, and type of appointment of each member of EDA's Performance Review Board are set forth below by organization:

1. *Jeannette P. Tamayo,* Chicago Regional Director, EDA, career, serves as Chair, new member.

2. *Kenneth J.E. Hyatt,* Acting Deputy Under Secretary for International Trade, International Trade (ITA), non-career, new member.

3. *Gordon T. Alston,* Director, Financial Reporting and Internal Controls, OS, Office of the Chief Financial Officer and Assistant Secretary for Administration, career.

4. *Edith J. McCloud,* Associate Director for Management, Minority Business Development Agency, career.

Dated: October 11, 2012.

Susan Boggs,

Director, Office of Staffing, Recruitment and Classification, Department of Commerce Human Resources Operations Center.

[FR Doc. 2012–26061 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[08–BIS–0005]

In the Matter of: Micei International, Respondent

Order Relating to Micei International

Whereas, the Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), notified Micei International, of Skopje, Macedonia (''Micei'') in 2008 that it initiated an administrative proceeding against Micei pursuant to Section 766.3 of the Export Administration Regulations (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (the ''Act''),[2] through the issuance of a Charging Letter to Micei in 2008 that alleges that Micei committed fourteen violations of the Regulations in 2003; [3]

Whereas, an Administrative Law Judge (''ALJ'') previously issued a Recommended Decision and Order in this proceeding containing findings of fact and conclusions of law, including, inter alia, that Micei was in default under Section 766.7 of the Regulations, and the then-Acting Under Secretary of Commerce for Industry and Security affirmed the ALJ's recommended default order through a Final Decision and Order dated May 14, 2009 (the ''May 14, 2009 Order'');

Whereas, Micei subsequently filed petitions for review of the May 14, 2009 Order, with the U.S. Court of Appeals for the District of Columbia Circuit and submitted briefs raising various challenges to the order (Appellant/Petitioner Brief filed Nov. 16, 2009, and Reply Brief filed Dec. 30, 2009).[4]

Whereas, the May 14, 2009 Order became effective on May 26, 2009, but subsequently, on July 24, 2009, BIS issued an Order Staying Enforcement of Final Decision and Order Pending Appeal with regard to the May 14, 2009 Order; [5]

Whereas, on July 16, 2010, the U.S. Court of Appeals for the District of Columbia Circuit issued its Decision and Order transferring Micei's petition for review to the U.S. District Court for the District of Columbia.[6] Accordingly, Micei's petition is currently pending as Civil Action Number 1:10–cv–01237 (JDB) (the ''petition for review'');

Whereas, BIS and Micei have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein;

Whereas, the Settlement Agreement contains a provision that, if I approve the terms of the Settlement Agreement and issue this Order, the parties are required to jointly submit to the District Court within five days of my issuance of this Order a stipulation of dismissal with prejudice with regard to Micei's petition for review; and

Whereas, I have approved the terms of such Settlement Agreement.

It is therefore ordered:

First, as set forth in the Settlement Agreement, Micei shall implement an Export Management and Compliance Program no later than six months from the effective date of this Order. Said Export Management and Compliance Program shall be in substantial compliance with the BIS compliance guidelines, which are available from the BIS Web site at *http://www.bis.doc.gov/complianceandenforcement/emcp_guidelines.pdf,* and which are incorporated herein by reference. A copy of Micei's Export Management and Compliance Program shall be submitted in English to the Department of Commerce, Bureau of Industry and Security, Office of Exporter Services, Export Management and Compliance Division, Attn: Tom Andrukonis, 14th St. & Pennsylvania Ave. NW., Washington, DC 20230 (''BIS Export Management and Compliance Division'') no later than six months from the effective date of this Order.

Second, as set forth in the Settlement Agreement, Micei shall complete two audits of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted in English to the BIS Export Management and Compliance Division

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2012). The alleged violations occurred in 2003. The governing provisions of the EAR are found in the 2003 version of the Code of Federal Regulations (15 CFR Parts 730–774). The 2012 Regulations set forth the procedures that apply to this matter.

[2] 50 U.S.C. app. §§ 2401–2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August15, 2012 (77 FR . 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*).

[3] *See* 74 FR 24,788 (May 26, 2009).

[4] *See Micei International* v. *Department of Commerce,* Nos. 09–1155 and 09–1186 (D.C. Cir.).

[5] *See* FR 38,394 (August 3, 2009).

[6] *See Micei International* v. *Department of Commerce,* 613 F.3d 1147 (D.C. Cir. 2010).

at the address listed in the paragraph above. The first audit shall cover the period from January 1, 2012, through December 31, 2012, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2013. The second audit shall cover the period from January 1, 2013, through December 31, 2013, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2014. Said audits shall be in substantial compliance with the EMS sample audit module, which is available on the BIS Web site at *http://www.bis.doc.gov/complianceandenforcement/revised_emcp_audit.pdf,* and shall include an assessment of Micei's compliance with the Regulations. In addition, where said audits identify actual or potential violations of the Regulations, Micei shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Export Management and Compliance Division.

Third, as set forth in the Settlement Agreement, the full and timely implementation of the Export Management and Compliance Program, as set forth above, and the timely completion and submission of the audits, as set forth above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Micei. Accordingly, if Micei should fail to fully or timely implement the Export Management and Compliance Program, or to timely complete and submit either of the audits as agreed to by the Parties and as set forth above, the undersigned may issue an Order denying all of Micei's export privileges under the Regulations for a period of one year from, respectively, the date by which the Export Management and Compliance Program is to be implemented or the date by which the results of the completed audits are to be submitted.

Fourth, that the Charging Letter, Settlement Agreement and this Order shall be made available to the public following the dismissal with prejudice of Micei's petition for review, along with the order of dismissal with prejudice by the District Court of Micei's petition for review.

Fifth, this Order shall become effective, upon entry of an order of dismissal with prejudice by the District Court of Micei's petition for review, shall constitute final agency action in this matter, and shall supersede and void the May 14, 2009 Order.

Issued this 11th day of October 2012.

Eric L. Hirschhorn,

Under Secretary of Commerce for Industry and Security.

[FR Doc. 2012–26058 Filed 10–22–12; 8:45 am]

BILLING CODEP

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Membership of the Bureau of Industry and Security Performance Review Board

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

ACTION: Notice of Membership on the Bureau of Industry and Security's Performance Review Board Membership.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the Bureau of Industry and Security (BIS), Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of BIS's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and rating of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for BIS's Performance Review Board begins on October 23, 2012.

FOR FURTHER INFORMATION CONTACT: Ruthie B. Stewart, Department of Commerce Human Resources Operations Center (DOCHROC), Office of Staffing, Recruitment, and Classification/Executive Resources Operations, 14th and Constitution Avenue NW., Room 7419, Washington, DC 20230, at (202) 482–3130.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the Bureau of Industry and Security (BIS), Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of BIS's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and rating of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for BIS's Performance Review Board begins on October 23, 2012. The name, position title, and type of appointment of each member of BIS's Performance Review Board are set forth below by organization:

Department of Commerce, Office of the Secretary

Michael A. Levitt, Assistant General Counsel for Legislation and Regulations, Office of General Counsel, Career SES

Geovette E. Washington, Deputy General Counsel, Office of General Counsel, Political Advisor (New Member)

Department of Commerce, Bureau of Industry and Security

Daniel O. Hill, Deputy Under Secretary, Career SES, Chairperson

Matthew S. Borman, Deputy Assistant Secretary for Export Administration, Career SES

Gay Shrum, Chief Financial Officer and Director of Administration, Career SES

Dated: October 11, 2012.

Susan Boggs,

Director, Office of Staffing, Recruitment and Classification, Department of Commerce Human Resources Operations Center.

[FR Doc. 2012–26062 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant seats on the Monterey Bay National Marine Sanctuary Advisory Council: Agriculture, At-Large (2), Business/Industry, Commercial Fishing, Conservation, Recreation, Recreational

Fishing, and Research. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen should expect to serve until February 2016.

DATES: Applications are due by November 23, 2012.

ADDRESSES: Application kits may be obtained from 99 Pacific Street, Bldg. 455A, Monterey, CA, 93940 or online at *http://montereybay.noaa.gov/*. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jacqueline Sommers, 99 Pacific Street, Bldg. 455A, Monterey, CA, 93940, (831) 647–4247, *Jacqueline.sommers@noaa.gov*.

SUPPLEMENTARY INFORMATION: The MBNMS Advisory Council is a community-based group that was established in March 1994 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Advisory Council has played a vital role in decisions affecting the Sanctuary along the central California coast.

The Advisory Council's twenty voting members represent a variety of local user groups, as well as the general public, plus seven local, state and federal governmental jurisdictions. In addition, the respective managers or superintendents for the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary and the Monterey Bay National Marine Sanctuary) and the Elkhorn Slough National Estuarine Research Reserve sit as non-voting members.

Four working groups support the Advisory Council: The Research Activity Panel (''RAP'') chaired by the Research Representative, the Sanctuary Education Panel (''SEP'') chaired by the Education Representative, the Conservation Working Group (''CWG'') chaired by the Conservation Representative, and the Business and Tourism Activity Panel (''BTAP'') co-chaired by the Business/Industry Representative and Tourism Representative, each dealing with matters concerning research, education, conservation and human use. The working groups are composed of experts from the appropriate fields of interest and meet monthly, or bimonthly, serving as invaluable advisors to the Advisory Council and the Sanctuary Superintendent.

The Advisory Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the central California coastal and marine ecosystems.

The Advisory Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping develop policies, program goals, and identify education, outreach, research, long-term monitoring, resource protection, and revenue enhancement priorities. The Advisory Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program within the context of California's marine programs and policies.

Authority: 16 U.S.C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 12, 2012.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–25861 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Gray's Reef National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant seats on the Gray's Reef National Marine Sanctuary Advisory Council: K–12 education, non-living resources research and citizen-at-large. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen for the K–12 education or non-living resources research seats should expect to serve 3-year terms, pursuant to the council's Charter. The applicant chosen for the citizen-at-large seat should expect to serve a 2-year term.

DATES: Applications are due by November 30, 2012.

ADDRESSES: Application kits may be obtained from Becky Shortland, Council Coordinator (*becky.shortland@noaa.gov,* 10 Ocean Science Circle, Savannah, GA 31411; 912–598–2381). Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Becky Shortland, Council Coordinator (*becky.shortland@noaa.gov,* 10 Ocean Science Circle, Savannah, GA 31411; 912–598–2381.

SUPPLEMENTARY INFORMATION: The sanctuary advisory council was established in August 1999 to provide advice and recommendations on management and protection of the sanctuary. The advisory council, through its members, also serves as liaison to the community regarding sanctuary issues and represents community interests, concerns, and management needs to the sanctuary and NOAA.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 12, 2012.

Daniel J. Basta,

National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–25862 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for Olympic Coast National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant

seats on the Olympic Coast National Marine Sanctuary Advisory Council: Commercial Fishing (primary and alternate positions) and Education (primary and alternate positions). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve three-year terms, pursuant to the council's charter.

DATES: Applications are due by Friday, December 7, 2012.

ADDRESSES: Application kits may be obtained from Norma Klein, Olympic Coast National Marine Sanctuary, 115 East Railroad Ave., Suite 301, Port Angeles, WA 98362 (*norma.klein@noaa.gov*). Completed applications should be sent via mail or email to the same address.

FOR FURTHER INFORMATION CONTACT: Carol Bernthal, Superintendent, Olympic Coast National Marine Sanctuary, 115 East Railroad Ave., Suite 301, Port Angeles, WA 98362, 360.457.6622 x11, *carol.bernthal@noaa.gov* or George Galasso, Assistant Superintendent, 360.457.6622 x12, *george.galasso@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Olympic Coast National Marine Sanctuary (OCNMS) Advisory Council seats are for a three-year term and have a designated primary member and an alternate. The OCNMS Advisory Council meets bi-monthly in public sessions in communities in and around Olympic Coast National Marine Sanctuary.

The OCNMS Advisory Council was established in December 1998 to assure continued public participation in the management of the sanctuary. Serving in a volunteer capacity, the advisory council's 15 voting members represent a variety of local user groups, as well as the general public. In addition, six Federal government agencies and the state Marine Resource Committee representatives serve as non-voting, ex officio members. Since its establishment, the advisory council has played a vital role in advising OCNMS and NOAA on critical issues. In addition to providing advice on management issues facing the Sanctuary, council members serve as a communication bridge between constituents and OCNMS staff.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 12, 2012.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–25860 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–NK–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Correction to the Amendment of the 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 Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION: This notice replaces the **Federal Register** notice in Vol. 77, No. 190 published on Monday, October 1, 2012 by Committee for the Implementation of Textile Agreements (CITA) titled 'Amendment of Limitation of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary ATPDEA Countries From Regional Country Fabric'. Specifically, this notice corrects the quantity of imports eligible for preferential treatment under the regional fabric provision. The original notice incorrectly listed the quantity of imports eligible for preferential treatment to be 1,341,030,128. As corrected below, the actual quantity of imports eligible for preferential treatment is 1,239,899,947.

Authority: Section 3103 of the Trade Act of 2002, Pub. L. 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, Pub L. No. 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 1,239,899,947 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. 2012–26068 Filed 10–22–12; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

The following notice of a scheduled meeting is published pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, 5 U.S.C. 552b.

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIMES AND DATES: The Commission has scheduled a meeting for the following date:

October 25, 2012 at 1:00 p.m.

PLACE: Three Lafayette Center, 1155 21st St. NW., Washington, DC, Lobby Level Hearing Room (Room 1300).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has scheduled this meeting to consider various rulemaking matters, including the issuance of proposed rules and the approval of final rules. The agenda for this meeting is available to the public and posted on the Commission's Web site at *http://www.cftc.gov.* In the event that the time or date of the meeting changes, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, Assistant Secretary of the Commission, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2012–26130 Filed 10–19–12; 11:15 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Office of Postsecondary Education; Secretary's Recognition of Accrediting Agencies

SUMMARY: The information collected is required to determine if an accrediting agency complies with the Secretary of Education's Criteria for Recognition and is used to allow the Secretary to make determinations on extending and/or continuing recognitions.

DATES: Interested persons are invited to submit comments on or before November 23, 2012.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0041 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Title 34 CFR Part 602: Secretary's Recognition of Accrediting Agencies.

OMB Control Number: 1840–0788.

Type of Review: Revision.

Total Estimated Number of Annual Responses: 167.

Total Estimated Number of Annual Burden Hours: 4,885.

Abstract: In compliance with Title 34 CFR Part 602, the information collected consists of petitions, reports and accreditation notifications. The information collected is required to determine if an accrediting agency complies with the Secretary of Education's Criteria for Recognition and is used to allow the Secretary to make determinations on extending and/or continuing recognition. Only postsecondary institutions accredited by such a recognized accrediting agency obtain Title IV funding for its students. This portion of the new regulation was disclosed but not submitted for public comment when the negotiated rulemaking legislature was originally announced in the **Federal Register** in 2009. Therefore, this submission is considered a ''revision of a currently approved collection.''

Dated: October 17, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–26093 Filed 10–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE/NSF High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open Meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the Federal Register.

DATES: Wednesday, December 5, 2012; 9:00 a.m.–6:00 p.m.; and Thursday, December 6, 2012; 9:00 a.m.–1:00 p.m.

ADDRESSES: Double Tree Hotel, 8120 Wisconsin Ave., Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–25/ Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: 301–903–1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of high energy physics research.

Tentative Agenda: Agenda will include discussions of the following:

Wednesday, December 5, 2012 and Thursday, December 6, 2012

- Discussion of Department of Energy High Energy Physics Program
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut, 301–903–1298 or by email at: *John.Kogut@science.doe.gov.* You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the U.S. Department of Energy's Office of High Energy Physics Advisory Panel Web site at: *http://science.energy.gov/hep/hepap/meetings/.*

Issued in Washington, DC on October 17, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–26054 Filed 10–22–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 requires that public notice of these meetings be published in the Federal Register.

DATES: Friday, November 16, 2012, 8:30 a.m.–5:00 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Alyssa Morrissey, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–2926 or facsimile (202) 586–1441; email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SEAB was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary.

Purpose of the Meeting: The Buildings Efficiency and Small Modular Reactor Subcommittees will present interim reports to the Board for review.

Tentative Agenda: The meeting will start at 8:30 a.m. on November 16, 2012. The meeting agenda includes full committee discussion regarding the draft reports from the Buildings Efficiency and Small Modular Reactor Subcommittees. The SEAB will decide whether or not to put forward the recommendations in the interim reports to the Secretary. The committee will also have a general discussion of energy policy and the Department of Energy. The meeting will conclude at 5:00 p.m.

Public Participation: The meeting will be open to the public. Individuals who would like to attend must RSVP to Alyssa Morrissey no later than 5:00 p.m. on Wednesday, November 14, 2012, by email at: *seab@hq.doe.gov.* The RSVPs should note if the individual is not a U.S. citizen to ensure the paperwork necessary for entry can be completed in advance. Individuals and representatives of organizations who would like to offer comments may do so at the meeting on Friday, November 16, 2012. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will follow the five-minute rule. Public Comment will be available on a first come, first served basis. The Designated Federal Official and Deputy Designated Federal Official are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Alyssa Morrissey, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or by email to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB Web site at: *http://www.energy.gov/SEAB* or by contacting Ms. Morrissey. She may be reached at the postal address or email address above.

Issued in Washington, DC on October 16, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–26056 Filed 10–22–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring, Surveillance and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 14, 2012 2:00 p.m.–4:00 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring, Surveillance and Remediation Committee (EMS&R): The EMS&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EMS&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda:

1. Approval of Agenda
2. Approval of Minutes of Minutes of October 17, 2012
3. Update from Executive Committee—Carlos Valdez, Chair
4. Update from DOE—Ed Worth, Deputy Designated Federal Officer
5. Report from Ad Hoc Committee on Annual Evaluation
6. Discussion on Draft Recommendations to DOE
7. 2:45 p.m. Presentation on Environmental Clean-up at Los Alamos National Laboratory (TBD)
8. 3:45 p.m. Public Comment Period
9. 4:00 p.m. Adjourn

Public Participation: The NNMCAB's EMS&R and WM Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*.

Issued at Washington, DC on October 18, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–26057 Filed 10–22–12; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

October 18, 2012.

TIME AND DATE: 10:00 a.m., Thursday, November 8, 2012.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor* v. *The American Coal Co.,* Docket No. LAKE 2010–408–R. (Issues include whether the Administrative Law Judge erred in vacating an order issued under section 103(k) of the Mine Act, 30 U.S.C. 813(k).)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2012–26165 Filed 10–19–12; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *James D. Moore, Jr., and Judith S. Moore, both of Abingdon, Virginia; Heather M. Post, Asheville, North Carolina; and James D. Moore, III, Sterling, Virginia,* as a group acting in concert; to retain voting shares of Highlands Bankshares, Inc., and thereby indirectly retain voting shares of Highlands Union Bank, both in Abingdon, Virginia.

Board of Governors of the Federal Reserve System, October 18, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–26048 Filed 10–22–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 16, 2012.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *MidSouth Bancorp, Inc.,* Lafayette, Louisiana; to merge with PSB Financial Corporation, and thereby indirectly acquire Peoples State Bank, both in Many, Louisiana.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Greenwoods Financial Group, Inc.,* Lake Mills, Wisconsin; proposes to acquire 100 percent of the voting shares of Bank of Monticello, Monticello, Wisconsin.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *American State Bancshares, Inc.,* Great Bend, Kansas; to acquire 100 percent of the voting shares of Holcomb Bancshares, Inc., and thereby indirectly acquire voting shares of First National Bank of Holcomb, both in Holcomb, Kansas.

Board of Governors of the Federal Reserve System, October 18, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–26049 Filed 10–22–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Robocall Challenge

AGENCY: Federal Trade Commission.

ACTION: Notice; Public challenge.

SUMMARY: The Federal Trade Commission (FTC) announces a prize competition that challenges the public to create innovative solutions to block illegal robocalls.

DATES: The Submission Period is October 25, 2012 (5:00 p.m. Eastern Time) to January 17, 2013 (5:00 p.m. Eastern Time). The Judging Period is January 17, 2013 (5:00 p.m. Eastern Time) to March 31, 2013 (5:00 p.m. Eastern Time). Winners will be announced on or around April 1, 2013.

FOR FURTHER INFORMATION CONTACT: Kati Daffan, 202–326–2727, Division of Marketing Practices, Bureau of Consumer Protection, FTC, H–286, 600 Pennsylvania Ave. NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The FTC Robocall Challenge (the ''Competition'') is an initiative of the Federal Trade Commission (''FTC'') challenging the public to create innovative solutions that will block illegal robocalls on landlines and mobile phones. The vast majority of telephone calls that deliver a prerecorded message trying to sell something to the recipient are illegal. The FTC regulates these calls under the Telemarketing Sales Rule. *See* 16 CFR 310.4(b)(1)(v). The Competition is intended to provide recognition to individuals, teams of individuals, for-profit legal entities and/or non-profit organizations (collectively, ''Contestants'') for developing proposed technical solutions or functional solutions and proofs of concepts that can block illegal robocalls (each a ''Solution'').

The Competition is subject to all applicable laws and regulations and is void where prohibited. Participation constitutes Contestant's full and unconditional agreement to these Official Rules and to decisions of the Sponsor and Administrator (as defined below), which are final and binding in all matters related to the Competition. Winning a prize is contingent upon fulfilling all requirements set forth in the Official Rules.

1. Sponsor and Administrator

Sponsor: Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

Administrator: ChallengePost, Inc., 425 W. 13th Street, Suite #504, New York, NY 10014, USA.

2. Competition Schedule

The Submission Period is October 25, 2012 (5:00 p.m. Eastern Time) to January 17, 2013 (5:00 p.m. Eastern Time). The Judging Period is January 17, 2013 (5:00 p.m. Eastern Time) to March 31, 2013 (5:00 p.m. Eastern Time). Winners will be announced on or around April 1, 2013.

3. Eligibility

A. Pursuant to the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, 15 U.S.C. 3719, the Competition is open only to:

(i) Individuals who are at least 18 years of age at the time of entry, and are citizens or permanent residents of the United States as of the time of entry;

(ii) teams of eligible individuals where each team member meets the eligibility requirements for individual Contestants; and

(iii) corporations (including not-for-profit corporations and other nonprofit organizations), limited liability companies, partnerships, and other legal entities that, at the time of entry, are incorporated in, and maintain a primary place of business in, the United States, and (a) employ fewer than ten (10) people (''Small Organizations''); or (b) employ 10 or more people (''Large Organizations'').

Large Organizations may compete only for the ''Federal Trade Commission Technology Achievement Award,'' and are not eligible to compete for the Best Overall Solution Award.

B. Contestants must own or have access at their own expense to a computer, an Internet connection, and any other electronic devices, documentation, software or other items that Contestants may deem necessary to create and enter their Submission.

C. Each team, Small Organization, or Large Organization shall appoint one individual (the ''Representative'') to represent and act, including registering and entering a Submission, on behalf of said team, Small Organization, or Large Organization. The Representative must meet the eligibility requirements for an individual Contestant and must be duly authorized to submit on behalf of the team, Small Organization, or Large Organization. The Representative represents and warrants that (i) he/she is duly authorized to act on behalf of the team, Small Organization, or Large Organization; and that (ii) each member of the team (or in the case of Small Organization or Large Organization, each participating member) has read the Official Rules and agrees to abide by these Official Rules. The Representative will ensure that each member of the team, Small Organization, or Large Organization reads, agrees to, and complies with the Official Rules.

D. An individual may join more than one team, Small Organization, or Large Organization, and an individual who is part of a team, Small Organization, or Large Organization may also enter the Competition on an individual basis.

E. The following individuals, teams, Small Organizations and Large Organizations are *not* eligible regardless of whether or not they meet the criteria set forth above:

(i) The Sponsor, the Administrator, and any advertising agency, contractor or other organization involved with the design, production, promotion, execution, or distribution of the Competition (collectively ''Promotion Entities''); all employees, representatives and agents of such Promotion Entities; and all members of any such employee, representative or agent's immediate family or household;

(ii) any individual involved with the design, production, promotion, execution, or distribution of the Competition and each member of any such individual's immediate family or household;

(iii) any organization or individual that employs any Judge or that otherwise has a material business relationship or affiliation with any Judge;

(iv) any Federal entity or Federal employee acting within the scope of their employment, or as may otherwise be prohibited by Federal law (employees should consult their agency ethics officials);

(v) any individual, team, or organization that used Federal facilities or consulted with Federal employees to develop their Solution, unless the facilities and employees were made available to all Contestants participating in the Competition on an equitable basis; and

(vi) any individual, team, or organization that used Federal funds to develop their Solution, unless such use is consistent with the grant award, or other applicable Federal funds awarding document. If a grantee using Federal funds enters and wins this Competition, the prize monies will need to be treated as program income for purposes of the original grant in accordance with applicable Office of Management and Budget Circulars. Federal contractors may not use Federal funds from a contract to develop a Solution for this Challenge.

F. For purposes hereof:

(i) The members of an individual's immediate family include such individual's spouse, children and step-children, parents and step-parents, and siblings and step-siblings; and

(ii) the members of an individual's household include any other person who shares the same residence as such individual for at least three (3) months out of the year.

4. Competition Submission Period

A. Contestants may enter a Submission between October 25, 2012, at 5:00pm Eastern Time and January 17, 2013, at 5:00pm Eastern Time (the ''Competition Submission Period''). The Administrator's computer is the official time keeping device for this Competition.

B. Any Submission entered following the Competition Submission Period shall be disqualified.

5. Registration and Submission

A. Registration

(i) Beginning at 5:00pm Eastern Time on October 25, 2012, visit *http://Robocall.Challenge.gov* (the ''Competition Web site'') and click ''Sign Up'' to create a ChallengePost account, or click ''Log In'' and log in with an existing ChallengePost account. There is no charge for creating a ChallengePost account.

(ii) After a Contestant signs up on the Competition Web site a confirmation email will be sent to the email address provided by the Contestant. The Contestant must use the confirmation email to verify their email address.

(iii) Contestants should indicate their agreement in participating by clicking ''Accept this Challenge'' on the Competition Web site in order to receive important Competition updates.

(iv) In the event of a dispute pertaining to this Competition, the authorized account holder of the email address used to sign up for the ChallengePost account used to enter the Submission will be deemed to be the Contestant (in case of an individual) and the Contestant's Representative, in the case of a team, Small Organization, or Large Organization. The ''authorized account holder'' is the natural person or legal entity assigned an email address by an Internet access provider, online service provider or other organization responsible for assigning email addresses for the domain associated with the submitted address. Contestants generally and potential winners may be required to show proof of being the authorized account holder.

B. Submission

(i) Develop a Solution that will block illegal robocalls. The Solution should block robocalls on landlines and mobile phones and can operate on a proprietary or non-proprietary device or platform.

(ii) Create a technical proposal describing how the Solution functions, or would function, if implemented (the ''Proposal''). Solutions can be proposed as technical solutions or functional solutions and proofs of concept. The Proposal should specifically address each of the three evaluation criteria described below in Section 10. The Proposal must be no longer than 15 pages. Proposals will only be viewable by the authorized employees, officials, or agents or the Sponsor, Administrator, and judges, and shall not be disclosed except as permitted or required by law.

(iii) During the Competition Submission Period, Contestant must visit the Competition Web site and confirm that it has or, if Contestant is a Representative, all members of the team, Small Organization or Large Organization have, read and agreed to the Official Rules.

Then, the Contestant must submit:

a. The name of the Solution;

b. a brief text description of the Solution;

c. at least one image representative of the Solution; and

d. a file upload of the Proposal.

Additionally, the Contestant may submit for consideration:

e. a link to a publicly available video on Youtube.com or Vimeo.com demonstrating a Solution on a device or emulator, or describing how the proposed Solution would work, if implemented.

Paragraphs a–e above are collectively a ''Submission.''

(iv) For clarity's sake, the name, text description, image, file upload, video link, and Web site or installation file link must all be submitted at the same time on the Competition Web site. All Submissions must be received by no later than 5:00 p.m. Eastern Time on January 17, 2013.

(v) Contestants that are a Small Organization or Large Organization must indicate as much when entering a Submission.

6. Submission Requirements

A. Language Requirements

Submissions, including the Proposal, text description, and video or software application interface (if applicable) must be in English, except that textual material in a language other than English will be accepted if accompanied by an English translation of that text.

B. Image, Video and Text Description Requirements

(i) The text description must describe how the Solution functions or would function, if implemented. The text description will be displayed publicly on the Competition Web site and should not include proprietary information.

(ii) The image should be a photograph, screenshot or diagram that is representative of the Solution. The

image(s) will be displayed publicly on the Competition Web site and should not include proprietary information.

(iii) Any video included with the Submission:

a. Must be no longer than five (5) minutes;

b. should clearly demonstrate a Solution on a device or emulator, or describe technically how the proposed Solution would work, if implemented;

c. should demonstrate usability or illustrate dynamic processes;

d. should not include proprietary information (the video will be displayed publicly on the Competition Web site); and

e. must not include music or other copyrighted material unless the Contestant has written permission to use such material

(iv) If the video is primarily promotional, rather than a technical demonstration of the Solution, the video may be removed from consideration, or the Submission may be disqualified at the Sponsor's and/or Administrator's sole discretion.

(v) All individuals that appear in a Video, including the Contestant, must complete and sign the Video Consent Form, which the Contestant must keep on file for three (3) years after the close of the submission period. If a minor appears in the Video, the minor's parent/legal guardian must also sign the Video Consent Form. The Sponsor may request a copy of the consent form at any point up to three (3) years after the close of the submission period.

C. Solution Requirements

In addition to the requirements described above in Section 5(B):

(i) Solutions may utilize robocall complaint data provided by the Sponsor. Contestants may access such data by completing the Data Request Form on the Competition Web site. Any attempt, successful or otherwise, to re-identify such data, or to combine or merge it with any other data or information that is individually identifiable, is strictly prohibited, shall be grounds for disqualification from the Competition, and may be subject to law enforcement investigation or proceedings, as appropriate and authorized. Use of the robocall complaint data is NOT required and preference will NOT be given to Contestants solely on the basis of choosing to use the data in their Solution.

(ii) The Contestant may offer the Solution to the public for free or charge a fee for it.

(iii) Any Solution that was publicly available prior to the start of the Competition Submission Period is not eligible for entry in the Competition, unless (I) the Solution submitted incorporated significant new functionality, features and changes after the start of the Competition Submission Period; and (II) such new functionality, features and changes were not previously available in the version of the Solution publicly accessible prior to the start of the Competition. Contestants must indicate at the time of entry that the Solution existed prior to the Competition and describe the new functionality that has been added.

D. General Requirements

(i) Submissions must not:

a. Violate applicable law;

b. depict hatred;

c. be in bad taste;

d. denigrate (or be derogatory towards) any person or group of persons or any race, ethnic group or culture;

e. threaten a specific community in society, including any specific race, ethnic group or culture;

f. incite violence or be likely to incite violence;

g. contain vulgar or obscene language or excessive violence;

h. contain pornography, obscenity or sexual activity; or

i. disparage the Sponsor.

(ii) Submissions must not attempt to duplicate a prior Submission already submitted in this Competition. Sponsor or Administrator reserves the right in its sole discretion to disqualify any Submission that is a duplicate or substantially similar to another Submission.

(iii) Submissions must be free of malware. Contestant agrees that the Sponsor and the Administrator may conduct testing on the Application to determine whether malware or other security threats may be present. Submission not complying with these requirements may be disqualified.

E. Additional Terms

(i) Once a Submission has been submitted, Contestant may not make any changes or alterations to the Submission.

(ii) A Contestant may submit more than one Submission. However, each Submission must be unique, as determined by Sponsor and/or the Administrator in their sole discretion. If a Contestant enters two or more Submissions that are substantially similar, the Sponsor and Administrator reserve the right to disqualify Submissions or require the Contestant to choose one Submission to enter into the Competition.

(iii) By entering a Submission, Contestant represents, warrants and agrees that the Submission is the original work of the Contestant and complies with the Official Rules. Contestant further represents, warrants and agrees that any use of the Submission by the Sponsor, Administrator and/or Judges (or any of their respective partners, subsidiaries and affiliates) as authorized by these Official Rules, shall not:

a. Infringe upon, misappropriate or otherwise violate any intellectual property right or proprietary right including, without limitation, any statutory or common law trademark, copyright or patent, nor any privacy rights, nor any other rights of any person or entity;

b. constitute or result in any misappropriation or other violation of any person's publicity rights or right of privacy.

7. Submission Rights

A. Subject to the licenses described below, any applicable intellectual property rights to a Submission will remain with the Contestant.

B. By entering the Submission to this Competition, Contestant grants to the Sponsor and the Administrator, and any third parties acting on behalf of the Sponsor and/or the Administrator, a non-exclusive, irrevocable, royalty free and worldwide license to use the Submission, any information and content submitted by the Contestant, and any portion thereof, and to display the Solution name, text description, video, and images (but not the Proposal), on the Competition Web site, during the Competition and for 36 months after its conclusion. Sponsor and the Administrator, and any third parties acting on their behalf will also have the right to publicize Contestant's name and, as applicable, the names of Contestant's team members, Small Organization, or Large Organization which participated in the Submission (the ''Contestant Names'') on the Competition Web site, and in any media whatsoever, for advertising and publicity purposes relating to the Competition, during the Competition and for three (3) years thereafter.

8. Display of Submissions

A. Eligible Submissions will be posted on the Competition Web site on a rolling basis after being screened and/or tested by the Administrator for basic functionality, accuracy of messaging, integrity (i.e., security) and appropriateness of content. The title, text description, images, and video (if submitted), will be displayed publicly on the Competition Web site. The Proposal will only be viewable by

authorized employees, officials, and agents of the Sponsor, Administrator and judges, and shall not be disclosed except as permitted or required by Federal law.

B. Posting of a Submission to the Competition Web site does not constitute a final determination by the Sponsor and/or Administrator that the Submission is eligible and met requirements.

C. Non-Contestants interested in the Competition may obtain updates on the Competition by creating an account on the Competition Web site or by logging in using an existing ChallengePost account. Additionally, such registered visitors (''Registered Visitors'') will be able to comment on the text description of the proposal and other publicly available items, if any. The Administrator may moderate and remove comments for spam or other inappropriate use.

9. Winner Selection and Judging Criteria

A. All Submissions will be judged by an expert panel of impartial judges (the ''Judges'') selected by the Sponsor and the Administrator. Such Submissions may initially be screened by a qualified internal panel selected by the Sponsor at its sole discretion. The internal panel will judge these Submissions on the criteria identified in these Official Rules to select finalist Submissions. Finalist Submissions will then be judged by the expert judging panel determined by the Sponsor and identified on the Competition Web site. The Sponsor and the Administrator reserve the right to substitute or modify the judging panel, or extend or modify the Judging Period, at any time for any reason.

B. All Judges shall be and remain fair and impartial. Any Judge may recuse him or herself from judging a Submission if the Judge, the Sponsor or the Administrator considers that it is inappropriate, for any reason, for the Judge to evaluate a specific Submission or group of Submissions.

C. A Contestant's likelihood of winning will depend primarily on the number and quality of all of the Submissions, as determined by the Judges using the criteria in these Official Rules.

10. Best Overall Solution Prize

A. Criteria

(i) Does it work? (50%)

- How successful is the proposed solution likely to be in blocking illegal robocalls? Will it block wanted calls? An ideal solution blocks all illegal robocalls and no calls that are legally permitted. (For example, automated calls by political parties, charities and health care providers, as well as reverse 911 calls, are not illegal robocalls.)
- How many consumer phones can be protected? What types of phones? Mobile phones? Traditional wired lines? VoIP land lines? Proposals that will work for all phones will be more heavily weighted.
- What evidence do you already have to support your idea? Running code? Experiments? Peer-reviewed publications?
- How easy might it be for robocallers to adapt and counter your scheme? How flexible is your scheme to adapt to new calling techniques? How have you validated these points? Remember that the real test of a security system is not whether or not you can break it; it's whether or not the other folks can.

(ii) Is it easy to use? (25%)

- How difficult would it be for a consumer to learn to use your solution?
- How efficient would it be to use your solution, from a consumer's perspective?
- Are there mistakes consumers might make in using your solution, and how severe would they be?
- How satisfying would it be to use your solution?
- Would your solution be accessible to people with disabilities?

(iii) Can it be rolled out? (25%)

- What has to be changed for your idea to work? Can it function in today's marketplace? (E.g., Does it require changes to all phone switches world-wide, and require active cooperation by all of the world's phone companies and VoIP gateways, or can it work with limited adoption?) Solutions that are deployable at once will be more heavily weighted, as will solutions that give immediate benefits with even small-scale deployment.
- Is deployment economically realistic?
- How rapidly can your idea be put into production?

B. In order to be considered for the Prize, submissions must satisfy each required category (i.e., explain how the submission works, is easy to use, and can be rolled out). The one (1) Contestant whose Submission earns the highest overall scores will become the potential winner of the Prize identified below in Section 13. If the Judges determine that no one satisfies each required category, no one will be deemed eligible for the Prize.

C. In the event of a tie between or among two or more Submissions, the Prize identified below in Section 13 will be divided equally between the tied Contestants with the highest overall scores.

D. Large Organizations are not eligible to compete for or win the Best Overall Solution Prize.

11. Federal Trade Commission Technology Achievement Award

A. Criteria

(i) Does it work? (50%)

- How successful is the proposed Solution likely to be in blocking illegal robocalls? Will it block wanted calls? An ideal solution blocks all illegal robocalls and no calls that are legally permitted. (For example, automated calls by political parties, charities and health care providers, as well as reverse 911 calls, are not illegal robocalls.)
- How many consumer phones can be protected? What types of phones? Mobile phones? Traditional wired lines? VoIP land lines? Proposals that will work for all phones will be more heavily weighted.
- What evidence do you already have to support your idea? Running code? Experiments? Peer-reviewed publications?
- How easy might it be for robocallers to adapt and counter your scheme? How flexible is your scheme to adapt to new calling techniques? How have you validated these points? Remember that the real test of a security system is not whether or not you can break it; it's whether or not the other folks can.

(ii) Is it easy to use? (25%)

- How difficult would it be for a consumer to learn to use your solution?
- How efficient would it be to use your solution, from a consumer's perspective?
- Are there mistakes consumers might make in using your solution, and how severe would they be?
- How satisfying would it be to use your solution?
- Would your solution be accessible to people with disabilities?

(iii) Can it be rolled out? (25%)

- What has to be changed for your idea to work? Can it function in today's marketplace? (E.g., Does it require changes to all phone switches world-wide, and require active cooperation by all of the world's phone companies and VoIP gateways, or can it work with limited adoption?) Solutions that are deployable at once will be more heavily weighted, as will solutions that give immediate benefits with even small-scale deployment.
- Is deployment economically realistic?

• How rapidly can your idea be put into production?

B. In order to be considered for the Prize, submissions must satisfy each required category (i.e., explain how the submission works, is easy to use, and can be rolled out). The one (1) Large Organization Contestant whose Submission earns the highest overall score for the Federal Trade Commission Technology Achievement Award will become the potential winner of the non-cash Prize identified below in Section 13. If the Judges determine that no one satisfies each required category, no one will be deemed eligible for the Prize. In the event of a tie between or among two or more Submissions for the Federal Trade Commission Technology Achievement Award, each of the tied Submissions with the highest overall scores will be named as winners of the Federal Trade Commission Technology Achievement Award.

C. The likelihood of a Large Organization being selected to win the Federal Trade Commission Technology Achievement Award depends on the number and quality of eligible Submissions made by Large Organizations.

12. Verification of Potential Winners

A. ALL POTENTIAL COMPETITION WINNERS ARE SUBJECT TO VERIFICATION OF IDENTITY, QUALIFICATIONS AND ROLE IN THE CREATION OF THE SOLUTION BY THE SPONSOR AND THE ADMINISTRATOR, WHOSE DECISIONS ARE FINAL AND BINDING IN ALL MATTERS RELATED TO THE COMPETITION. Potential winners must continue to comply with all terms and conditions of these Official Rules throughout the Competition and Judging Period. Potential winners will be notified using the email address associated with the ChallengePost account used to enter the Submission on or about April 1, 2013. For sake of clarity, if a potential winner is a team, Small Organization or Large Organization, the notification will only be sent to the Representative. In order to receive a Prize, the potential winner will be required to sign and return to the Administrator affidavit(s) of eligibility or a similar verification document and liability/publicity release(s) within ten (10) business days. (If a potential winner is a team, Small Organization or Large Organization, the Representative and all participating members must sign and return to the Administrator said affidavit(s) of eligibility or a similar verification document and liability/publicity release(s) within ten (10) business days.)

B. At the sole discretion of the Sponsor and Administrator, a potential winner may be deemed ineligible to win if:

(i) the potential winner (or in the case of a team, Small Organization or Large Organization, their Representative) cannot be contacted within seven (7) business days, or is contacted and refuses the Prize;

(ii) the potential winner (or in the case of a team, Small Organization or Large Organization, their Representative or any participating member) fail(s) to sign and return the affidavit(s) of eligibility or a similar verification document and liability/publicity release(s) within ten (10) business days from receipt of such documents;

(iii) the Prize or Prize notification is returned as undeliverable; or

(iv) the Submission or the potential winner, or any member of a potential winner's team or organization, is disqualified for any other reason. In the event of such disqualification, Sponsor and Administrator at their sole discretion may award the applicable Prize to an alternate potential winner. The disqualification of one (or more) team members (or, in the case of Small Organizations and Large Organizations, any participating members) from further consideration in this Competition for any reason may result in the disqualification of the entire team, Small Organization or Large Organization and of each participating member at the sole discretion of the Sponsor and/or Administrator.

13. Prizes

Winner	Prize	Quantity
Best Overall Solution	US$50,000 Travel for no more than two representatives from the winning team or organization to Washington, DC to present the winning Solution.	1
Federal Trade Commission Technology Achievement Award.	Recognition only	1

A. If no eligible Submissions are entered in the Competition, the Prize will not be awarded. No Prize substitutions will be made except for the right of the Sponsor to make a Prize substitution of equivalent or greater value in the event the Prize or any portion thereof is unavailable. Prizes must be accepted as awarded. No transfer or substitution of a Prize is permitted except at the Sponsor's and Administrator's sole discretion. The Prize may be mailed to the winning Contestant's or, if a Small Organization is selected as a prize winner, the Representative's address within 45 days of receipt of the signed affidavit(s) of eligibility or a similar verification document and liability/publicity release(s) form(s). If a team or a Small Organization is selected as a Prize-winner, the associated Prize may be shipped to said team or Small Organization's Representative. It will be the responsibility of the winning team or Small Organization's Representative to allocate the Prize amongst its team or Small Organization members, as the Representative deems it appropriate.

B. Winners (and in the case of team or Organization, all participating members) are responsible for reporting and paying all applicable federal, state, and local taxes. It is the sole responsibility of Prize winners of US$600 or more to provide certain information to the Sponsor and Administrator in order to facilitate receipt of the award, including completing and submitting any tax forms when necessary and any applicable withholding and reporting requirements. The Sponsor and Administrator reserve the right to withhold a portion of the prize amount to comply with tax laws.

C. In the event a winner/potential winner's employer has a policy that prohibits the awarding of a Prize to an employee, the Prize will be forfeited and an alternate potential winner may be selected. Each Contestant hereby acknowledges and agrees that the relationship between the Contestant, the Sponsor and the Administrator is not a confidential, fiduciary, or other special relationship, and that the Contestant's decision to provide the Contestant's Submission to Sponsor and Administrator for the purposes of this Competition does not place the Sponsor, the Administrator, and their respective agents in a position that is any different

from the position held by the members of the general public with regard to elements of the Contestant's Submission, except as specifically provided in these Official Rules.

14. Entry Conditions and Release

A. By entering, each Contestant (including, in the case of team, Small Organization and Large Organization, all participating members) agree(s) to:

(i) Comply with and be bound by these Official Rules and the decisions of the Sponsor, Administrator, and/or the Competition judges, which Rules and decisions are binding and final in all matters relating to this Competition;

(ii) release, indemnify, defend and hold harmless the Sponsor, Administrator, and their respective parent, subsidiary, and affiliated companies, and any other organizations responsible for sponsoring, fulfilling, administering, advertising or promoting the Competition, and all of their respective past and present officers, directors, employees, agents and representatives (hereafter the ''Released Parties'') from and against any and all claims, expenses, and liabilities (including reasonable attorneys' fees), including but not limited to negligence and damages of any kind to persons and property, defamation, slander, libel, violation of right of publicity, infringement of trademark, copyright or other intellectual property rights, property damage, or death or personal injury arising out of or relating to a Contestant's entry, creation of Submission or entry of a Submission, participation in the Competition, acceptance or use or misuse of the Prize (including any travel or activity related thereto) and/or the broadcast, transmission, performance, exploitation or use of Submission as authorized or licensed by these Official Rules.

B. Without limiting the foregoing, the Released Parties shall have no liability in connection with:

(i) Any incorrect or inaccurate information, whether caused by the Sponsor's, the Administrator's or a Contestant's electronic or printing error or by any of the equipment or programming associated with or utilized in the Competition;

(ii) technical failures of any kind, including, but not limited to malfunctions, interruptions, or disconnections in phone lines, internet connectivity or electronic transmission errors, or network hardware or software or failure of the Competition Web site;

(iii) unauthorized human intervention in any part of the entry process or the Competition;

(iv) technical or human error that may occur in the administration of the Competition or the processing of Submissions; or

(v) any injury or damage to persons or property that may be caused, directly or indirectly, in whole or in part, from the Contestant's participation in the Competition or receipt or use or misuse of any Prize. If for any reason any Contestant's Submission is confirmed to have been erroneously deleted, lost, or otherwise destroyed or corrupted, the Contestant's sole remedy is to request the opportunity to resubmit its Submission, which request will be determined at the sole discretion of the Sponsor and the Administrator if the Competition Submission Period is still open.

C. Based on the subject matter of the Competition, the type of work that it possibly will require, and the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from challenge participation, Participant is not required to obtain liability insurance or demonstrate fiscal responsibility in order to participate in this Competition.

15. Publicity

Participation in the Competition constitutes a winner's consent to Sponsor's, and their agents' use of the winner's name, likeness, photograph, voice, opinions, comments and/or hometown and state of residence (and, as applicable, those of all other members of the team, Small Organization or Large Organization which participated in the Submission) for promotional purposes in any media, worldwide, without further payment or consideration, for a period of three years following the conclusion of the Competition.

16. General Conditions

A. Sponsor and Administrator reserve the right to cancel, suspend and/or modify the Competition, or any part of it, if any fraud, technical failure or any other unanticipated factor or factor beyond Sponsor's and Administrator's control impairs the integrity or proper functioning of the Competition, as determined by Sponsor and Administrator at their sole discretion. The Sponsor and Administrator reserve the right at their sole discretion to disqualify any individual or Contestant that the Sponsor or Administrator finds to be tampering with the entry process (for example by using the aid of computer software programs to auto-fill entries) or the operation of the Competition, or to be acting in violation of these Official Rules or in a manner that is inappropriate, not in the best interests of this competition, or a violation of any applicable law or regulation.

B. Any attempt by any person to undermine the proper conduct of the Competition may be a violation of criminal and civil law, and, should such an attempt be made, the Sponsor and the Administrator reserve the right to take proper legal action, including, without limiting, referral to law enforcement, for any illegal or unlawful activities.

C. The Sponsor and/or the Administrator's failure to enforce any term of these Official Rules shall not constitute a waiver of that provision. The Sponsor and the Administrator are not responsible for incomplete, late, misdirected, damaged, lost, illegible, or incomprehensible Submissions or for address or email address changes of the Contestants. Proof of sending or submitting will not be deemed to be proof of receipt by Sponsor or Administrator.

D. In the event of any discrepancy or inconsistency between the terms and conditions of the Official Rules and disclosures or other statements contained in any Competition materials, including but not limited to the Competition Submission form, Competition Web site, or point of sale, television, print or online advertising, the terms and conditions of the Official Rules shall prevail.

E. The Sponsor and the Administrator reserve the right, without liability, to amend the terms and conditions of the Official Rules at any time, including the rights or obligations of the Contestant, the Sponsor, and the Administrator. The Sponsor and Administrator will post the terms and conditions of the amended Official Rules on the Competition Web site (''Corrective Notice''). As permitted by law, any amendment will become effective at the time the Sponsor and/or Administrator post the amended Official Rules.

F. Excluding Submissions, all intellectual property related to this Competition, including but not limited to trademarks, trade-names, logos, designs, promotional materials, web pages, source codes, drawings, illustrations, slogans and representations are owned or used under license by the Sponsor and/or the Administrator. All rights are reserved. Unauthorized copying or use of any copyrighted material or intellectual property without the express written consent of its owners is strictly prohibited.

G. Should any provision of these Official Rules be or become illegal or

unenforceable under applicable Federal law, such illegality or unenforceability shall leave the remainder of these Official Rules unaffected and valid. The illegal or unenforceable provision shall be replaced by a valid and enforceable provision that comes closest and best reflects the Sponsor's intention in a legal and enforceable manner with respect to the invalid or unenforceable provision.

17. Limitations of Liability

By entering, all Contestants (including, in the case of a team, Small Organization or Large Organization, all participating members) agree to be bound by the Official Rules and hereby release the Released Parties from any and all liability in connection with the Prizes or Contestant's participation in the Competition. Provided, however, that any liability limitation regarding gross negligence or intentional acts, or events of death or body injury shall not be applicable in jurisdictions where such limitation is not legal.

18. Disputes

A. Contestants Agree That

(i) Any and all disputes, claims and causes of action arising out of or connected with this Competition, or any Prizes awarded, other than those concerning the administration of the Competition or the determination of winners, shall be resolved individually, without resort to any form of class action;

(ii) any and all disputes, claims and causes of action arising out of or connected with this Competition, or any Prizes awarded, shall be resolved pursuant to Federal law;

(iii) under no circumstances will Contestants be entitled to, and Contestants hereby waives all rights to claim, any punitive, incidental and consequential damages and any and all rights to have damages multiplied or otherwise increased.

B. All issues and questions concerning the construction, validity, interpretation and enforceability of these Official Rules, or the rights and obligations of the Contestants, the Sponsor and the Administrator in connection with the Competition, shall be governed by, and construed in accordance with Federal law.

19. Privacy

The Administrator collects personal information from you when you enter the Competition. The information collected is subject to the privacy policy located here: *http://ChallengePost.com/privacy.* The Administrator is authorized to share this information with the Sponsor in accordance with the Administrator's privacy policy.

20. Competition Results

For Competition results, visit Competition Web site on or about April 1, 2013.

21. Contact Us

If you have any questions or wish to send us any notice regarding this Competition, please email us at *Support@ChallengePost.com.*

Jon Leibowitz,

Chairman.

[FR Doc. 2012–25979 Filed 10–22–12; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day 13–12JN]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

The National Health and Nutrition Examination Survey (NHANES)—NEW—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States.

The National Health and Nutrition Examination Survey (NHANES) has, to date, been authorized as a generic clearance under OMB Number 0920–0237. A change in accounting practices, however, requires a shift to a newly-assigned clearance number for future full cycles of the survey.

The National Health and Nutrition Examination Survey (NHANES) was conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC.

Annually, approximately 15,411 respondents participate in some aspect of the full survey. About 10,000 complete the screener for the survey. About 142 complete the household interview only. About 5,269 complete both the household interview and the Mobile Examination Center (MEC) examination. Up to 2,500 additional persons might participate in tests of procedures, special studies, or methodological studies. The average burden for these special study/pretest respondents is 3 hours. Participation in NHANES is completely voluntary and confidential. A three-year approval is requested.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as arthritis, asthma, osteoporosis, infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, physical activity, environmental exposures, and diet. NHANES data are used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in the health of the U.S. population over time. NHANES continues to collect genetic material on a national probability sample for future genetic research aimed at understanding disease susceptibility in the U.S. population. NCHS collects personal identification information. Participant level data items will include basic demographic information, name, address, social security number, Medicare number and participant health information to allow for linkages to other data sources such as the National Death Index and data from the Centers for Medicare and Medicaid Services (CMS).

NHANES data users include the U.S. Congress; numerous Federal agencies such as other branches of the Centers for Disease Control and Prevention, the National Institutes of Health, and the

United States Department of Agriculture; private groups such as the American Heart Association; schools of public health; and private businesses. There is no cost to respondents other than their time. The total estimate of annualized burden is 46,028 hours.

ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
1. Individuals in households	NHANES Questionnaire	15,411	1	2.5
2. Individuals in households	Special Studies	2,500	1	3

Dated: October 15, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–26065 Filed 10–22–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA NUMBER: 93.670]

Announcement of the Award of a Single-Source Replacement Grant to the University of Colorado Denver, Kempe Center for the Prevention and Treatment of Child Abuse & Neglect

AGENCY: Children's Bureau, ACF, HHS.

ACTION: Announcement of the award of a single-source replacement grant to the University of Colorado Denver, Kempe Center for the Prevention and Treatment of Child Abuse & Neglect.

SUMMARY: The Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau (CB) awarded the National Quality Improvement Center on Differential Response (QIC–DR) cooperative agreement to the American Humane Association on September 30, 2008. On April 13, 2012, the American Humane Association submitted a letter relinquishing its grant effective June 30, 2012. The University of Colorado, Kempe Center for the Prevention and Treatment of Child Abuse & Neglect (Kempe Center), Denver, CO, an eligible organization, submitted its letter along with its grant application requesting approval as the replacement grantee for the QIC–DR grant. CB has received and reviewed the application from the Kempe Center. For the remainder of the project period listed below, this organization has been awarded funds in the amount of $3,028,694 as the permanent replacement grantee.

DATES: This project period is from July 1, 2012, through September 29, 2013.

FOR FURTHER INFORMATION CONTACT: Dori Sneddon, Child Welfare Program Specialist, Office on Child Abuse and Neglect, Children's Bureau, 1250 Maryland Avenue SW., Washington, DC 20024. Telephone: 202–205–8024; Email: *Dori.Sneddon@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The National Quality Improvement Center on Differential Response in Child Protective Services (QIC–DR) is a five-year project to generate and disseminate new knowledge about differential response practices and strategies in child protective service systems. QIC–DR has three primary goals: (1) Design and conduct evaluation, to rigorously study implementation, outcomes and cost impact of differential response in research and demonstration sites; (2) Learn if differential response is an effective approach in CPS; and (3) Build cutting-edge, innovative and replicable knowledge about differential response, including guidance on best practices in differential response.

Statutory Authority: Section 105 of the Child Abuse Prevention and Treatment Act, as amended (42 U.S.C. Section 5106).

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2012–26079 Filed 10–22–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Reallotment of FY 2011 Funds for the Low Income Home Energy Assistance Program (LIHEAP)

AGENCY: Office of Community Services, ACF, HHS

ACTION: Notice of determination concerning funds available for reallotment.

CFDA Number: 93.568

Statutory Authority: 45 CFR 96.81 and 42 U.S.C. 8621 *et seq.*

SUMMARY: In accordance with Section 2607(b)(1) of the Low Income Home Energy Assistance Act (the Act), Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621, *et seq.*), as amended, a notice was published in the **Federal Register** on August 14, 2012 announcing the Secretary's preliminary determination that $3,089,920 of Fiscal Year (FY) 2011 funds may be available for re-allotment. After a 30-day comment period, this amount has not changed. This notice announces that $3,089,920 was reallotted on September 26, 2012 to FY 2012 Low Income Home Energy Assistance Program (LIHEAP) grantees, who were also grantees in FY 2011. Pursuant to the statute cited above, funds will be reallotted to LIHEAP grantees based upon the normal allocation formula as if the funds had been appropriated for FY 2013. Thus, at least 90% of these funds must be obligated by grantees by September 30, 2013, with the remainder to be obligated by September 30, 2014. No subgrantees or other entities may apply for these funds.

FOR FURTHER INFORMATION CONTACT: Nick St. Angelo, Director, Division of Energy Assistance, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20447; telephone (202) 401–9351; email: *nick.stangelo@acf.hhs.gov.*

Dated: October 17, 2012.

Jeannie L. Chaffin,

Director, Office of Community Services.

[FR Doc. 2012–26076 Filed 10–22–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Senior Medicare Patrol (SMP) Program Outcome Measurement

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 23, 2012.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Doris Summey at 202.357.3533 or email: *doris.summey@aoa.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

Grantees are required by Congress to provide information for use in program monitoring and for Government Performance and Results Act (GPRA) purposes. This information collection reports the number of active volunteers, issues and inquiries received, other SMP program outreach activities, and the number of Medicare dollars recovered, among other SMP performance outcomes. This information is used as the primary method for monitoring the SMP Projects.

ACL estimates the burden of this collection of information as follows: *Respondents:* 54 SMP grantees at 23 hours per month (276 hours per year, per grantee). *Total Estimated Burden Hours:* 7,452 hours per year.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2012–26091 Filed 10–22–12; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Zuma Mutant Mice as a Tool for Investigating Mammalian Developmental Defects

Description of Technology: In vertebrates, mutations in different ribosomal protein subunits result in a variety of phenotypes, suggesting unique and perhaps extra-ribosomal functions for these proteins. Diamond-Blackfan Anemia (DBA) is a ribosomal protein disease, in which the bone marrow fails to produce red blood cells.

NHGRI investigators recently generated a mouse line with a mutation in small ribosomal protein7 (Rps7), known to be involved in DBA. This line named Zuma (made with the use of the mutagen N-ethyl-N-nitrosourea (ENU)) carries a point mutation in exon 7 of Rps7, which is predicted to cause a substitution of a conserved amino acid (pY177S). The mutation results in the disruption of ribosomal biogenesis, as well as in abnormal skeletal, melanocyte, and central nervous system development. Thus, the Zuma line can be used as a model of DBA, as well as a tool for investigating other defects of mammalian development.

Potential Commercial Applications:

- Animal model of Diamond-Blackfan Anemia (DBA).
- Research tool to study other mammalian developmental defects.

Competitive Advantages: Not available elsewhere.

Development Stage:

- Prototype.
- Pre-clinical.
- In vitro data available.

Inventors: William J. Pavan and Dawn Watkins Chow (NHGRI).

Publication: Manuscript submitted.

Intellectual Property: HHS Reference No. E–294–2012/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*.

Collaborative Research Opportunity: The Mouse Embryology Section of the National Human Genome Research Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Diamond-Blackfan Anemia therapies. For collaboration opportunities, please contact Claire T. Driscoll, Director, NHGRI Technology Transfer Office, at *cdriscoll@mail.nih.gov* or 301–594–2235.

Magnetic Resonance Arterial Wall Imaging Methods That Compensate for Patient Aperiodic Intrinsic Cardiac, Chest Wall, and Blood Flow-Induced Motions

Description of Technology: The technology includes MRI methods, systems, and software for reliably imaging vasculature and vascular wall thickness while compensating for aperiodic intrinsic motion of a patient during respiration. To overcome the loss of the orthogonality due to uncompensated residual motions and after a lapse of time equal to the trigger delay commenced at the cardiac cycle, the system acquires multiple consecutive time-resolved images of the arterial wall. The cine images are processed offline and a wall thickness measurement is produced.

The method improves arterial wall imaging by increasing the success rate of obtaining good and excellent quality images and imaging slice-vessel orthogonality. The method also provides more precise wall measurements and a more distinct difference between healthy subjects and patients.

The methodology and system can be applied to any commercially available MRI scanner.

Potential Commercial Applications:

- Early detection of vascular disease,
- Research in the field of vascular disease,

• Non-invasive assessment of the efficacy of medication and/or lifestyle changes in vascular health status in a particular subject, and

• Assessment of the efficacy of new medications or new uses of existing medications to treat vascular disease.

Competitive Advantages: Existing techniques suffer from image degradation due to aperiodic intrinsic cardiac, chest wall motions, or other bulk motion that often cause image blur and reduced wall sharpness. These techniques do not adequately address the time-dependent angular orientation of the arteries, whereby mispositioning of the imaged slice may cause disappearance of the lumen-wall interface altogether.

In the new technology time-resolved arterial wall imaging overcomes the loss of the orthogonality due to uncompensated residual motion.

Development Stage:

• Prototype.
• Early-stage.
• Pre-clinical.
• In vivo data available (human).

Inventors: Khaled Z. Abd-Elmoniem (NIDDK), Ahmed Gharib (NIDDK), Roderic Pettigrew (NIBIB).

Publications:

1. Plein S, et al. Three-dimensional coronary MR angiography performed with subject-specific cardiac acquisition windows and motion-adapted respiratory gating. AJR Am J Roentgenol. 2003 Feb;180(2):505–12. [PMID 12540462]

2. Hoffmann MH, et al. Automatic determination of minimal cardiac motion phases for computed tomography imaging: Initial experience. Eur Radiol. 2006 Feb;16(2):365–73. [PMID 16021450]

3. Ustun A, et al. Automated identification of minimal myocardial motion for improved image quality on MR angiography at 3 T. AJR Am J Roentgenol. 2007 Mar;188(3):W283–90. [PMID 17312038]

4. Roes SD, et al. Correction for heart rate variability during 3D whole heart MR coronary angiography. J Magn Reson Imaging. 2008 May;27(5):1046–53. [PMID 18425831]

5. Abd-Elmoniem KZ, et al. Phase-sensitive black-blood coronary vessel wall imaging. Magn Reson Med. 2010 Apr;63(4):1021–30. [PMID 20373403]

6. Spuentrup E, et al. The impact of navigator timing parameters and navigator spatial resolution on 3D coronary magnetic resonance angiography. J Magn Reson Imaging. 2001 Sep;14(3):311–8. [PMID 11536409]

Intellectual Property: HHS Reference No. E–185–2012/0—U.S. Provisional Application No. 61/692,191 filed 22 Aug 2012.

Licensing Contact: Michael Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The Biomedical and Metabolic Imaging Branch, NIDDK, NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize time-resolved arterial wall imaging. For collaboration opportunities, please contact Khaled Z. Abd-Elmoniem at *abdelmoniemkz@mail.nih.gov*.

Topical Antibiotic With Immune Stimulating Oligodeoxynucleotide Molecules To Speed Wound Healing

Description of Technology: The present technology provides a mean of improving the activity of topical antibiotics. Currently available topical antibiotic formulations effectively eliminate bacteria at a wound site. But in eliminating bacteria in the wound, such antibiotics also eliminate the molecular signals present in bacterial DNA that stimulate to immune system's wound healing processes. Without these signals the rate of wound healing is diminished. It would be desirable for topical antibiotics to remove infectious bacteria but also provide the immune stimulating signals needed to promote and accelerate healing. The present formulation accomplishes these goals by supplementing the antibiotic formulation with immunostimulatory oligodeoxynucleotides (ODN). These ODN express the CpG motifs present in bacterial DNA and safely mimic the immune stimulation induced by bacterial DNA. The formulation may be applied directly to a wide variety of wounds to skin (such as traumatic, burn, or surgical wound), or the eyes (such as corneal abrasions) to effectively eliminate infection and stimulate rapid healing of the wound.

Potential Commercial Applications: Topical antibiotic.

Competitive Advantages: Eliminates wound site bacteria while retaining immune stimulating properties that promote faster wound healing.

Development Stage:

• Early-stage.
• In vivo data available (animal).

Inventors: Dennis Klinman, Hiroyasu Ito, Noriho Iida (all of NCI).

Publications:

1. Ito H, et al. Antibiotics delay wound healing: An effect reversed by co-administering TLR7 and 9 ligands. Current Angiogenesis. 2012 Apr;1(1):46–51.

2. Sato T, et al. Accelerated wound healing mediated by activation of Toll-like receptor 9. Wound Repair Regen. 2010 Nov–Dec;18(6):586–93. [PMID 20946144]

3. Yamamoto M, et al. The acceleration of wound healing in primates by the local administration of immunostimulatory CpG oligonucleotides. Biomaterials. 2011 Jun;32(18):4238–42. [PMID 21421264]

Intellectual Property: HHS Reference No. E–294–2011/0—U.S. Provisional Application No. 61/639,688 filed 27 Apr 2012.

Related Technology: HHS Reference No. E–242–2007/0—U.S. Patent Application No. 12/205,756 filed 05 Sep 2008.

Licensing Contact: Edward (Tedd) Fenn; 301–435–5031; *fenned@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize adding immunostimulatory CpG oligonucleotides to a topical antibiotic formulation to accelerate wound healing. For collaboration opportunities, please contact John Hewes, Ph.D. at *hewesj@mail.nih.gov*.

Antimalarial Inhibitors That Target the Plasmodial Surface Anion Channel (PSAC) Protein and Development of the PSAC Protein as Vaccine Targets

Description of Technology: There are two related technologies, the first being small molecule inhibitors of the malarial plasmodial surface anion channel (PSAC) and the second being the PSAC protein itself as a vaccine candidate. The PSAC protein is produced by the malaria parasite within host erythrocytes and is crucial for mediating nutrient uptake. In vitro data show that the PSAC inhibitors are able to inhibit growth of malaria parasites, have high specificity, and low toxicity. Portions of the PSAC protein are found on the outer surface of infected host erythrocytes and the protein was recently shown to be encoded by the clag3 gene. This discovery opens the possibility of developing the PSAC protein as a potential vaccine candidate against malaria.

Potential Commercial Applications:

• Antimalarial Drugs.
• Malaria Vaccine.

Competitive Advantages:

• Novel target against malaria.
• Small molecule inhibitors of PSAC inhibit malarial parasite growth, have low toxicity, and high specificity.
• PSAC protein is exposed on the surface of the infected host erythrocytes, making it an attractive vaccine candidate.

Development Stage:

• Early-stage.
• Pre-clinical.
• In vitro data available.

Inventor: Sanjay Desai (NIAID).

Publications:

1. Pillai AD, et al. Solute restriction reveals an essential role for clag3-associated

channels in malaria parasite nutrient acquisition. Mol Pharmacol. 2012 Sep 4; Epub ahead of print. [PMID 22949525]

2. Desai SA. Ion and nutrient uptake by malaria parasite-infected erythrocytes. Cell Microbiol. 2012 Jul;14(7):1003–9. [PMID 22432505]

3. Nguitragool W, et al. Malaria parasite clag3 genes determine channel-mediated nutrient uptake by infected red blood cells. Cell. 2011 May 27;145(5):665–77. [PMID 21620134]

4. Pillai AD, et al. A cell-based high-throughput screen validates the plasmodial surface anion channel as an antimalarial target. Mol Pharmacol. 2010 May;77(5):724–33. [PMID 20101003]

Intellectual Property: HHS Reference No. E–145–2011/0—International PCT Patent Application No. PCT/US12/33072 filed 11 Apr 2012.

Related Technology: HHS Reference No. E–202–2008/0—Patent family filed in the U.S., Europe, Brazil, India, and China.

Licensing Contact: Kevin W. Chang, Ph.D.; 301–435–5018; *changke@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Antimalarial Inhibitors that Target the Plasmodial Surface Anion Channel (PSAC) Protein. For collaboration opportunities, please contact Dana Hsu at *dhsu@niaid.nih.gov*. or 301–451–3521.

Fluorescent Magnesium Indicators

Description of Technology: A non-invasive approach in which Magnesium (Mg2+) ion levels can be measured in real-time. Mg2+ is essential to many physio-chemical processes and plays a central role in the biochemistry of all cells. Many epidemiological studies have established close association between plasma magnesium levels and various diseases including cardiovascular disease and hypertension. However, methods and tools to selectively measure cellular magnesium levels in the body with accuracy and reliability are still lacking in the market today. The present invention provides novel fluorescent indicators (carboxy-quinolizones) that are selective for Mg2+ and can be easily detected using fluorescence spectroscopy.

Current approaches used to measure intracellular magnesium in the body generally involve magnetic resonance spectroscopy, which is extremely expensive and subject to very poor accuracy. Unlike these other methods, the fluorescence indicators of this invention provide a more accurate way to measure intracellular and extracellular Mg2+ levels in a wide variety of biological settings and have potential to be developed into diagnostic reagents.

Potential Commercial Applications:

- Tool for measuring intracellular and extracellular magnesium levels.
- Diagnostic reagent for measuring magnesium levels in a human or animal.

Competitive Advantages:

- Increased accuracy compared to what is available on the market.
- Detection is noninvasive.
- Ease of use.

Development Stage:

- Early-stage.
- In vitro data available.

Inventors: Robert E. London, Pieter Otten, Louis A. Levy (all of NIEHS).

Publications:

1. Raju B, et al. A fluorescent indicator for measuring cytosolic free magnesium. Am J Physiol. 1989 Mar;256(3 Pt 1):C540–8. [PMID 2923192]

2. Otten PA, et al. 4-Oxo-4H-quinolizine-3-carboxylic acids as Mg2+-selective, fluorescent indicators. Bioconjugate Chem. 2001 Mar–Apr;12(2):203–12. [PMID 11312681]

Intellectual Property: HHS Reference No. E–067–2000/0 — U.S. Patent No. 6,706,528 issued 16 Mar 2004.

Licensing Contact: Suryanarayana Vepa, Ph.D., J.D.; 301–435–5020; *vepas@mail.nih.gov*.

Collaborative Research Opportunity: The NIEHS is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the fluorescent magnesium indicators. For collaboration opportunities, please contact Elizabeth M. Denholm, Ph.D. at *denholme@niehs.nih.gov*.

Dated October 18, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–26095 Filed 10–22–12; 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 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 General Medical Sciences Special Emphasis Panel; Peer Review of SCORE Grant Applications.

Date: November 15–16, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Saraswathy Seetharam, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An12C, Bethesda, MD 20892, 301–594–2763, *seetharams@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Predoctoral T32 Review SEP.

Date: November 16, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An18K, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3An18, Bethesda, MD 20892, 301–594–3907, *pikebr@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: October 17, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26012 Filed 10–22–12; 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; Training Grants I.

Date: November 5, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 707, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Timothy C. Meeker, MD, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279, *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Training Grants II.

Date: November 5, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 707, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sergei Radaev, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8113, Bethesda, MD 20892, 301–435–5655, *sradaev@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Management and Prevention.

Date: November 15–16, 2012.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Delia Tang, MD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8123, MSC 8328, Bethesda, MD 20892, 301–496–2330, *tangd@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm.*

(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: October 17, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26013 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed 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 Cancer Institute Initial Review Group; Subcommittee A—Cancer Centers.

Date: December 13–14, 2012.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gail J Bryant, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8107, MSC 8328, Bethesda, MD 20892–8328, (301) 402–0801, *gb30t@nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/irg/irg.htm.*

(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: October 17, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26014 Filed 10–22–12; 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; Program Projects in Anesthesiology.

Date: October 29, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An18, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An18, Bethesda, MD 20892, 301–594–3907, *pikbr@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. 93.375, 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: October 17, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26015 Filed 10–22–12; 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; Small Business: Cancer Drug Development and Therapeutics.

Date: November 8–9, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott Houston Hotel, 5150 Westheimer Road, Houston, TX 77056.

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological Disorders, Brain Tumors, and Eye Development and Diseases.

Date: November 12, 2012.

Time: 10:00 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: Samuel C. Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: November 21, 2012.

Time: 2:00 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: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@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: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26017 Filed 10–22–12; 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 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS clinical trial and planning grant applications in rheumatoid arthritis and skin diseases.

Date: November 16, 2012.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Suite 800, MSC 4872, Bethesda, MD 20892, 301–594–4952, *linh1@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 17, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26016 Filed 10–22–12; 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 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; Vascular Interventions/Innovations and Therapeutic Advances Coordinating Center.

Date: November 15, 2012.

Time: 8:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Vascular Innovations.

Date: November 15–16, 2012.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@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: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26019 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–Z.

Date: November 13, 2012.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26021 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with the attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the Eunice Kennedy Shriver National Institute of Child Health & Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: December 7, 2012.

Open: 8:00 a.m. to 11:30 a.m.

Agenda: A report by the Scientific Director, NICHD, on the status of the NICHD Division of Intramural Research.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Room 2A48, Bethesda, MD 20892.

Closed: 11:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, Room 2A48, Bethesda, MD 20892.

Contact Person: Constantine A. Stratakis, MD, D(med)Sci, Scientific Director, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, Building 31, Room 2A46, Bethesda, MD 20892, 301–594–5984, *stratakc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/meetings/2012/120712.cfm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos.93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26023 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of R34 Clinical Trial or Biomarker Clinical Evaluation Study Planning Grants.

Date: November 15, 2012.

Time: 3:30 p.m. to 4:30 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: Victor Henriquez, Ph.D., Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: October 16, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26030 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee.

Date: November 14, 2012.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Vasundhara Varthakavi, Ph.D., DVM, Scientific Review Officer, Scientific Review Program, ARRB/DEA/NIAID/NIH, 6700 B Rockledge Drive, Room 3256, Bethesda, MD 20892–7616, 301–451–1740, *varthakaviv@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: October 16, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26029 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research 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: Center for Inherited Disease Research Access Committee.

Date: November 16, 2012.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Camilla E. Day, Ph.D., Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 16, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26028 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Human Genome Research Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Human Genome Research Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Human Genome Research Institute.

Date: November 13–15, 2012.

Closed: November 13, 2012, 5:30 p.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda North Marriott Hotel & Conference Center, Forest Glen Room, 5701 Marinelli Road, Bethesda, MD 20852.

Open: November 14, 2012, 1:00 p.m. to 5:30 p.m.

Agenda: To discuss matters of program relevance.

Place: National Human Genome Research Institute, 5635 Fishers Lane, Terrace Level Conference Room, Rockville, MD 20892.

Closed: November 15, 2012, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Human Genome Research Institute, 5635 Fishers Lane, Terrace Level Conference Room, Rockville, MD 20892.

Contact Person: Monica Berger, Executive Secretary, Office of the Scientific Director, National Human Genome Research Institute, 50 South Drive, Bldg. 50, Rm 5222, Bethesda, MD 20892, 301–294–6873, *bergerm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 16, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26027 Filed 10–22–12; 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; Ancillary Studies on Molecular Genetics of Kidney and Urinary Tract Diseases.

Date: December 10, 2012.

Time: 1:00 p.m. to 2:00 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: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Policy and Program Evaluation.

Date: December 17, 2012.

Time: 11:00 a.m. to 2:00 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: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@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: October 16, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26026 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

Date: November 30, 2012.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: Strategic Discussion of NCI's Clinical and Translational Research Programs.

Place: National Institutes of Health, Building 31, C-Wing, 6th Floor, 31 Center Drive, Conference Rooms 9 and 10, Bethesda, MD 20892.

Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, Office of the Director, National Cancer Institute, National Institutes of Health, 6120 Executive Blvd., 3rd Floor Suite, Bethesda, MD 20892, 301–451–5048, *prindivs@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.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: October 17, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26025 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–Y 41 1.

Date: November 15, 2012.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26024 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; Training Programs Health Sciences T32 Review.

Date: November 15–16, 2012.

Time: 8:00 a.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: Sherry L. Dupere, Ph.D., Director, Division Of Scientific Review, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26022 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; Pregnancy Adaptation and Maternal Cardiovascular Health.

Date: November 13, 2012.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David H. Weinberg, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Rockville, MD 20852, 301–435–6973, *David.Weinberg@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26020 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Cardiothoracic Surgical Trials Network Review.

Date: November 13, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Metabolomics Standards Synthesis Center.

Date: November 14, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, *sunnarborgsw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Virtual Reality Technologies for Research and Education in Obesity and Diabetes.

Date: November 14, 2012.

Time: 6:00 p.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David A Wilson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892–7924, 301–435–0299, *wilsonda2@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: October 17, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–26018 Filed 10–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0033]

The Critical Infrastructure Partnership Advisory Council

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Quarterly Critical Infrastructure Partnership Advisory Council membership update.

SUMMARY: The Department of Homeland Security (DHS) announced the

establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) in a **Federal Register** Notice (71 FR 14930–14933) dated March 24, 2006, which identified the purpose of CIPAC, as well as its membership. This notice provides: (i) quarterly CIPAC membership updates; (ii) instructions on how the public can obtain the CIPAC membership roster and other information on the council; and (iii) information on recently completed CIPAC meetings.

FOR FURTHER INFORMATION CONTACT: Larry May, Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Sector Outreach and Programs Division, Office of Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0607, Arlington, VA 20598–0607; by telephone: (703) 603–5070; or via email at: *CIPAC@dhs.gov.*

Responsible DHS Official: Larry May, Designated Federal Officer for the CIPAC.

SUPPLEMENTARY INFORMATION:

Purpose and Activity: The CIPAC facilitates interaction between government officials and representatives of the community of owners and/or operators for each of the critical infrastructure sectors defined by Homeland Security Presidential Directive 7 and identified in the National Infrastructure Protection Plan. The scope of activities covered by the CIPAC includes planning; coordinating among government and critical infrastructure owner and operator security partners; implementing security program initiatives; conducting operational activities related to critical infrastructure protection security measures, incident response, recovery, and infrastructure resilience; reconstituting critical infrastructure assets and systems for both manmade as well as naturally occurring events; and sharing threat, vulnerability, risk mitigation, and infrastructure continuity information.

Organizational Structure: CIPAC members are organized into 18 critical infrastructure sectors. Each of these sectors has a government coordinating council (GCC) whose membership includes (i) a lead Federal agency that is defined as the Sector-Specific Agency; (ii) all relevant Federal, state, local, tribal, and/or territorial government agencies (or their representative bodies) whose mission interests also involve the scope of the CIPAC activates for that particular sector; and (iii) a sector coordinating council (SCC) whose membership includes critical infrastructure owners and/or operators or their representative trade associations.

CIPAC Membership: CIPAC Membership may include:

(i) Critical Infrastructure owner and/or operator members of an SCC;

(ii) Trade association members who are members of an SCC representing the interests of critical infrastructure owners and/or operators;

(iii) Each sector's GCC members; and

(iv) State, local, tribal, and territorial governmental officials comprising the State, Local, Tribal, and Territorial GCC.

CIPAC Membership Roster and Council Information: The current roster of CIPAC members is published on the CIPAC Web site (*http://www.dhs.gov/cipac*) and is updated as the CIPAC membership changes. Members of the public may visit the CIPAC Web site at any time to view current CIPAC membership as well as the current and historic list of CIPAC meetings and agendas.

Dated: October 16, 2012.

Larry May,

Designated Federal Officer for the CIPAC.

[FR Doc. 2012–26040 Filed 10–22–12; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Office of Law Enforcement/Federal Air Marshal Service LEO Reimbursement Request

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on June 20, 2012, 77 FR 37062. The collection involves the reimbursement of expenses incurred by airport operators for the provision of law enforcement officers (LEOs) to support airport security checkpoint screening.

DATES: Send your comments by November 23, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: LEO Reimbursement Request.

Type of Request: New Collection.

OMB Control Number: Not yet assigned.

Form(s): LEO Reimbursement Request.

Affected Public: Law Enforcement Officers.

Abstract: Pursuant to 49 U.S.C. §§ 106(m) and 114(m), TSA has authority to enter into agreements with airport operators to reimburse expenses

they incur for the provision of LEOs in support of screening at airport security checkpoints. Consistent with this authority, TSA, through its Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS), has created the LEO Reimbursement Program. TSA requires that participants in the LEO Reimbursement Program record the details of all reimbursements sought on the LEO Reimbursement Request form. TSA will use this form to provide for the orderly tracking of reimbursements.

Number of Respondents: 326.

Estimated Annual Burden Hours: An estimated 3,912 hours annually.

Issued in Arlington, Virginia, on October 12, 2012.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–25902 Filed 10–22–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–74]

Notice of Submission of Proposed Information Collection to OMB Indian Housing Block Grants (IHBG) Program Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Hawaiians, or tribally designated housing entities that receive IHBG funds are required annually to submit HUD–52737 that consists of two components: the Indian Housing Plan (IHP) component and the Annual Performance Report (APR) component. The IHP is required by Section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low and moderate income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month year. The recipient submits the IHP at least 75 days prior to the beginning of its 12-month program year. HUD conducts a limited review of the IHP to determine that the planned activities are in compliance with NAHASDA requirements, as defined at 24 CFR Part 1000. At the end of the 12-month period, the recipient submits the APR that is required by Section 404 of NAHASDA and describes (1) The use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. HUD uses the information in the APR to review the recipient's progress in implementing the IHP, verify whether the activities are eligible and to determine if the recipient has the capacity to continue implementing the activities described in the IHP in a timely manner. The information in the APR also will be used to provide Congress, stakeholders, and other interested parties with information on how the IHBG funds are being used to meet affordable housing needs within Native American communities.

DATES: *Comments Due Date:* November 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0218) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed Collection: Indian Housing Block Grants (IHBG) Program Reporting.

OMB Approval Number: 2577–0218.

Form Numbers: HUD 4117, HUD–4119, HUD 52737 (Excel), HUD 52737 (EPIC).

Description of the need for the information and proposed use: Hawaiians, or tribally designated housing entities that receive IHBG funds are required annually to submit HUD–52737 that consists of two components: the Indian Housing Plan (IHP) component and the Annual Performance Report (APR) component. The IHP is required by Section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low and moderate income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month year. The recipient submits the IHP at least 75 days prior to the beginning of its 12-month program year. HUD conducts a limited review of the IHP to determine that the planned activities are in compliance with NAHASDA requirements, as defined at 24 CFR Part 1000. At the end of the 12-month period, the recipient submits the APR that is required by Section 404 of NAHASDA and describes (1) The use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. HUD uses the information in the APR to review the recipient's progress in implementing the IHP, verify whether the activities are eligible and to determine if the recipient has the capacity to continue implementing the activities described in the IHP in a timely manner. The information in the APR also will be used to provide Congress, stakeholders, and other interested parties with information on how the IHBG funds are being used to meet affordable housing needs within Native American communities.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	579	2.290		36.325		48,168

Total estimated burden hours: 48,168.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 17, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–25984 Filed 10–22–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–76]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Real Estate Settlement Procedures Act Disclosures

AGENCY: Office of the Chief Information Officer.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 6, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; email: *Patrick.J.Fuch@OMB.eop.gov;* fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Office of Chief Information Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Real Estate Settlement Procedures Act (RESPA) Disclosures.

OMB Control Number, if applicable: 2502–0265.

Description of the need for the information and proposed use: This collection is a reinstatement of a discontinued information collection. The Real Estate Settlement Procedures Act of 1974, (RESPA), 12 U.S.C. 2601 *et seq.,* and Regulation X, codified at 24 CFR 3500, require real estate settlement service providers to give homebuyers certain disclosure information at and before settlement, and pursuant to the servicing of the loan and escrow account. This includes a Special Information Booklet, a Good Faith Estimate, a Servicing Disclosure Statement, the Form HUD–1 or Form HUD–1A, and when applicable an Initial Escrow Account Statement, an Annual Escrow Account Statement, a Consumer Disclosure for Voluntary Escrow Account Payments, an Affiliated Business Arrangement Disclosure, and a Servicing Transfer Disclosure.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), rulemaking authority for and certain enforcement authorities with respect to the Real Estate Settlement Procedures Act (RESPA) of 1974, as amended by Section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA), and other various amendments, transferred from the Department of Housing and Urban Development (HUD) to the Consumer Financial Protection Bureau (CFPB) on July 21, 2011. The Dodd-Frank Act also directed the CFPB to integrate certain disclosures required by the Truth in Lending Act (TILA) with certain disclosures required by the Real Estate Settlement Procedures Act (RESPA) of 1974. The CFPB expects the content and format of information collection forms under this clearance, HUD's existing HUD–1/1A and GFE forms, to be significantly revised or replaced by rulemaking. The CFPB published proposed rules in July and August of 2012 to that effect.

Historically, in order to satisfy information collection requirements under the Paperwork Reduction Act (PRA), the HUD–1/1A and GFE listed HUD's Office of Management and Budget (OMB) control number, 2502–0265. While the CFPB will be, upon OMB approval of this information collection request, the ''owner'' of this information collection, the CFPB believes that requiring covered persons to modify existing forms solely to replace HUD's OMB control number with the Bureau's OMB control number would impose substantial burden on covered persons with limited or no net benefit to consumers. Accordingly, the CFPB has reached an agreement with OMB and HUD whereby covered persons may continue to list HUD's OMB control number on the HUD–1/1A and GFE forms until a final rule to the contrary takes effect. Covered persons also have the option of replacing HUD's OMB control number with the Bureau's OMB control number on the HUD–1/1A and GFE forms until a final rule to the contrary takes effect. Once the CFPB's final rule takes effect, regulated industry will no longer be able to use the HUD control number.

Agency form numbers, if applicable: HUD–1, HUD–1A and [GFE form number to be determined].

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The total number of annual burden hours needed to prepare the information is 17,183,450; the number of respondents is estimated to be 50,000 generating approximately 149,589,500 responses annually; these are third party disclosures, the

frequency of response is annually for one disclosure and as required for others; and the estimated time per response varies from 2 minutes to 35 minutes.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 18, 2012.

Colette Pollard,

Departmental Reports Manager.

[FR Doc. 2012–26067 Filed 10–22–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–73]

Notice of Submission of Proposed Information Collection to OMB; Notice of Application for Designation as a Single Family Foreclosure Commissioner

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Under the Single Family Mortgage Foreclsoure Act of 1994, HUD may exercise a nonjudicial Power of Sale of single family HUD-held mortgages and may appoint Foreclosure Commissioners to do this. HUD needs the Notice and resulting appliations for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

DATES: *Comments Due Date:* November 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2510–0012) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Notice of Application for Designation as a Single Family Foreclosure Commission.

OMB Approval Number: 2510–0012.

Form Numbers: None.

Description of the need for the information and proposed use: Under the Single Family Mortgage Foreclosure Act of 1994, HUD may exercise a nonjudicial Power of Sale of single family HUD-held mortgages and may appoint Foreclosure Commissioners to do this. HUD needs the Notice and resulting appliations for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	30	1		0.5		15

Total estimated burden hours: 15.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 17, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–25988 Filed 10–22–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–75]

Notice of Submission of Proposed Information Collection to OMB; Rental Assistance Demonstration (RAD); Supporting Contracts and Processing Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Rental Assistance Demonstration allows Public Housing and Moderate Rehabilitation (Mod Rehab) properties to convert to long-term Section 8 rental assistance contracts; and Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Mod Rehab properties, upon contract expiration or termination, to convert tenant protection vouchers (TPVs) to project-based vouchers (PBVs). Participation in the initiative will be voluntary. Public Housing Agencies, Mod Rehab owners interested in participating in the Demonstration are required to submit supplementary documentation through these processing requirements to HUD so that HUD can determine throughout the conversion process the physical and financial sustainability of properties. As such, the

processing requirements will demonstrate to HUD that the applicant will be able to leverage private financing to address immediate and long-term capital needs, improve operations, and implement energy efficiency improvements. The processing information request will be in a Webbased portal and will be pre-populated with data HUD is collecting from the RAD Application, which is currently undergoing its 30 day review under cover of a separate PRA. Overall, supplementary documentation and information requested will allow the Department to determine which applicants continue to meet the eligibility requirements and have the capacity to successfully meet RAD's mission delineated in PIH Notice PIH–2012–32: Rental Assistance Demonstration—Final Implementation Notice. Finally, all applicants will be required to sign the appropriate contractual documents to complete conversion and bind both the applicant and HUD, as well as set forth the rights and duties of the applicant and HUD, with respect to the converted project and any payments under that project. This requirement is for all applicants in the Public Housing, Mod Rehab, Rent Supp and RAP programs. To review draft versions of the processing requirements and the contractual documentation please visit the RAD Web site: *www.hud.gov/rad/.*

DATES: *Comments Due Date:* November 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0276) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed Collection: Rental Assistance Demonstration (RAD); Supporting Contracts and Processing Requirements.

OMB Approval Number: 2577–0276.

Form Numbers: HUD–52610, HUD–52620, HUD–52612, HUD–52624, HUD–52621, HUD–52613, HUD–52617, HUD–52618, HUD–52625, HUD–52623, HUD–52622, HUD–52619, HUD–52615, HUD–52616, HUD–52614, HUD–52611.

Description of the need for the information and proposed use: The Rental Assistance Demonstration allows Public Housing and Moderate Rehabilitation (Mod Rehab) properties to convert to long-term Section 8 rental assistance contracts; and Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Mod Rehab properties, upon contract expiration or termination, to convert tenant protection vouchers (TPVs) to project-based vouchers (PBVs). Participation in the initiative will be voluntary. Public Housing Agencies, Mod Rehab owners interested in participating in the Demonstration are required to submit supplementary documentation through these processing requirements to HUD so that HUD can determine throughout the conversion process the physical and financial sustainability of properties. As such, the processing requirements will demonstrate to HUD that the applicant will be able to leverage private financing to address immediate and long-term capital needs, improve operations, and implement energy efficiency improvements. The processing information request will be in a Webbased portal and will be pre-populated with data HUD is collecting from the RAD Application, which is currently undergoing its 30 day review under cover of a separate PRA. Overall, supplementary documentation and information requested will allow the Department to determine which applicants continue to meet the eligibility requirements and have the capacity to successfully meet RAD's mission delineated in PIH Notice PIH–2012–32: Rental Assistance Demonstration—Final Implementation Notice. Finally, all applicants will be required to sign the appropriate contractual documents to complete conversion and bind both the applicant and HUD, as well as set forth the rights and duties of the applicant and HUD, with respect to the converted project and any payments under that project. This requirement is for all applicants in the Public Housing, Mod Rehab, Rent Supp and RAP programs. To review draft versions of the processing requirements and the contractual documentation please visit the RAD Web site: *www.hud.gov/rad/.*

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,539	1		2.906		7,379

Total estimated burden hours: 7,379.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended

Dated: *October 17, 2012.*

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–25987 Filed 10–22–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 049584, L51010000.FX0000.LVRWB09B3130]

Notice of Intent To Prepare an Environmental Impact Statement, a Possible Land Use Plan Amendment, and a Public Lands Segregation for the Proposed Soda Mountain Solar Project, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM), together with San Bernardino County, intend to prepare a joint Environmental Impact Statement (EIS)/Environmental Impact Report (EIR), which may include an amendment to the California Desert Conservation Area (CDCA) Plan, for the Soda Mountain Solar Project (Project). By this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues related to the EIS/Plan Amendment (PA).

DATES: This notice initiates the public scoping process for the EIS/EIR/PA. Comments on issues may be submitted in writing until November 23, 2012. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/ca/st/en/fo/cdd.html.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Soda Mountain Solar Project by any of the following methods:

- *Web site: http://www.blm.gov/ca/st/en/fo/cdd.html.*
- *Email: Sodamtnsolar@blm.gov.*
- *Fax:* 951–697–5299.
- *Mail:* ATTN: Jeffery Childers, Project Manager, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553–9046.

Documents pertinent to this proposal may be examined at the BLM California Desert District Office at the above address.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Jeffery Childers; telephone 951–697–5308; address BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553–9046; email *jchilders@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant, Soda Mountain Solar, LLC, has requested a right-of-way (ROW) authorization to construct, operate, maintain and decommission a maximum 350 megawatt (MW) photovoltaic facility and necessary ancillary facilities, including a project substation, access road, realignment of an existing designated route (Rasor Road), operations and maintenance buildings, and lay down areas. The project is proposed on 4,397 acres with the solar field occupying approximately 2,691 acres. This Notice informs the public that the BLM intends to prepare a Draft CDCA Plan amendment and associated EIS/EIR with San Bernardino County for the Project and announces the beginning of the scoping process to seek public input on environmental issues and planning criteria.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS/EIR. At present, the BLM has identified the following preliminary issues: Air quality and greenhouse gas emissions; biological resources, including special status species, cultural resources, geology and soils; hazards and hazardous materials; hydrology and water quality; land use; noise; recreation; traffic; visual resources; cumulative effects; and areas with high potential for renewable energy development.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. Comments must be received by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

Pursuant to the BLM's CDCA Plan, sites associated with power generation or transmission not identified in the Plan will be considered through the plan amendment process to determine the suitability of the site for renewable energy development. Since the proposed Project site was not previously identified as suitable, authorization of the Project would require amendment of the CDCA Plan. By this notice, the BLM is complying with requirements in 43 CFR 1610.2(c) to notify the public of potential amendments to the CDCA Plan predicated on the findings in the EIS/EIR. If a land use plan amendment is necessary, the BLM will integrate the land use planning process with the NEPA process for the Project. A preliminary list of the potential planning criteria that will be used to help guide and define the scope of the plan amendment includes:

1. The plan amendment will be completed in compliance with FLPMA, NEPA, and all other relevant Federal laws, executive orders, and BLM policies;

2. Existing valid plan decisions will not be changed and any new plan decisions will not conflict with existing plan decisions; and

3. The plan amendment(s) will recognize valid existing rights.

Pursuant to 43 CFR 2091.3–1(e) and 43 CFR 2804.25(e), the BLM is segregating the following described public lands, located in the State of California, subject to valid existing rights, from operation of the public land laws and mining laws, but not the mineral leasing or the material sale laws.

San Bernardino Meridian

T. 12 N., R. 7 E.,
Sec. 1, unsurveyed;
Sec. 2, unsurveyed;
Sec. 11, N½NE¼, SE¼;NE¼, NE¼NW¼, and SE¼;
Sec. 12, unsurveyed;
Sec. 13, unsurveyed;
Sec. 14, N½NE¼.
T.13 N., R. 7 E.,
Sec. 25, unsurveyed;
Sec. 36, NE¼, E½NW¼, and S½;.

T. 12 N., R. 8 E.,
Sec. 6, unsurveyed;
Sec. 7, unsurveyed;
Sec. 18, unsurveyed.
T. 13 N., R. 8 E.,
Sec. 17, unsurveyed;
Sec. 18, unsurveyed;
Sec. 19, unsurveyed;
Sec. 20, unsurveyed;
Sec. 30, unsurveyed;
Sec. 31, unsurveyed.
Containing 9,662 acres, more or less, in San Bernardino County, California.

In order to process the ROW application filed on the above described lands and continue to maintain the status quo, the BLM is segregating the above-described lands for a period of 2 years, subject to valid existing rights. The BLM has determined that this segregation is necessary for the orderly administration of the public lands.

The segregation period will terminate upon the date that is the earliest of the following: (1) The BLM issues a decision granting, granting with modifications, or denying the ROW application for the solar energy generation proposal; (2) Publication of a **Federal Register** notice of termination of the segregation; or (3) Automatically at the end of the segregation period provided for herein, without further administrative action by the BLM. The segregation made under this authority is effective only for a period of up to 2 years, without the possibility of extension.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) as provided for in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed Project and CDCA Plan amendment will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be asked by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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.

The BLM will evaluate identified issues to be addressed in the plan amendment, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the Scoping Report or the Draft EIS/EIR as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

Authority: 40 CFR 1501.7, 43 CFR 1610.2, 43 CFR 2091.3–1(e), and 43 CFR 2804.25(e).

Thomas Pogacnik,

Deputy State Director, California.

[FR Doc. 2012–26046 Filed 10–22–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUTG0200–L12200000–FH0000–24–1A]

Notice of Utah's Recreation Resource Advisory Council Conference Call Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conference Call Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act, the Federal Advisory Committee Act, and the Federal Lands Recreation Enhancement Act, the Utah Recreation Resource Advisory Council (RecRAC) will host a conference call meeting regarding the Bureau of Land Management (BLM) Price Field Office's proposed changes to the recreational permitting system for Desolation and Gray Canyons of the Green River.

DATES: The Utah RecRAC will host a conference call meeting Monday, November 19, 2012, from 2:00 p.m. until 4:00 p.m., MST.

ADDRESSES: The public is invited to attend the meeting either via telephone or in person. Those participating via telephone must dial the toll-free number (800) 369–1890 and provide the passcode, ''BLM.'' Those attending in person must meet at the BLM Utah State Office, 440 West 200 South, Salt Lake City, Utah, in the Monument Conference Room on the fifth floor.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, P.O. Box 45155, Salt Lake City, Utah 84145–0155; phone (801) 539–4195; *sfoot@blm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Federal Lands Recreation Enhancement Act, the 15-member Utah Recreation Resource Advisory Council advises the Secretaries of the Interior and Agriculture, through the BLM and U.S. Forest Service, on the establishment and modification of recreational fees administered by these Federal agencies in Utah. The BLM Price Field Office is proposing to convert its recreational permitting system for Desolation and Gray Canyons of the Green River from a first-come, first-served call-in reservation process to an on-line lottery reservation process on the Recreation.gov Web site. Details of the proposal can be reviewed in the BLM Price Field Office's *Draft Business Plan for Desolation and Gray Canyons of the Green River (http://www.blm.gov/ut/st/en/info/newsroom/2012/october/blm_price_field_office.html).* A public comment period will take place immediately following the presentation outlining the proposal. Written comments may also be sent to the BLM at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. The meeting is open to the public, however, transportation, lodging, and meals are the responsibility of the participating individuals.

Kent Hoffman,

Acting State Director.

[FR Doc. 2012–26063 Filed 10–22–12; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management (BOEM)

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Bureau of Ocean Energy Management by the joint bidding provisions of 30 CFR 556.41, each entity within one of the following groups shall be restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period November 1, 2012 through April 30, 2013. This List of Restricted Joint Bidders will cover the period November 1, 2012 thru April 30, 2013, and replace the prior list published on April 26, 2012; which covered the period of May 1, 2012, to October 31, 2012.

Group I. Exxon Mobil Corporation

ExxonMobil Exploration Company

Group II. Shell Oil Company

Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
SOI Finance Inc.
Shell Gulf of Mexico Inc.

Group III. BP America Production Company

BP Exploration & Production Inc.
BP Exploration (Alaska) Inc.

Group IV. Chevron Corporation

Chevron U.S.A. Inc.
Chevron Midcontinent, L.P.
Unocal Corporation
Union Oil Company of California
Pure Partners, L.P.

Group V. ConocoPhillips Company

ConocoPhillips Alaska, Inc.
Phillips Pt. Arguello Production Company
Burlington Resources Oil & Gas Company LP
Burlington Resources Offshore Inc.
The Louisiana Land and Exploration Company
Inexeco Oil Company

Group VI. Eni Petroleum Co. Inc.

Eni Petroleum US LLC
Eni Oil US LLC
Eni Marketing Inc
Eni BB Petroleum Inc.
Eni US Operating Co. Inc.
Eni BB Pipeline LLC

Group VII. Statoil ASA

Statoil Gulf of Mexico LLC
Statoil USA E&P Inc.
Statoil Gulf Properties Inc.

Group VIII. Petrobras America Inc.

Petroleo Brasileiro S.A.

Group IX. Total E&P USA, Inc.

Dated: October 10, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–26081 Filed 10–22–12; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–859]

Certain Integrated Circuit Chips and Products Containing the Same; Institution of Investigation Pursuant to United States Code

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 19, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Realtek Semiconductor Corporation of Taiwan. A letter supplementing the Complaint was filed on October 5, 2012. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuit chips and products containing the same by reason of infringement of certain claims of U.S. Patent No. 6,787,928 (''the '928 patent'') and U.S. Patent No. 6,963,226 (''the '226 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Dockets Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012). Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 16, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuit chips and products containing the same that infringe one or more of claims 1–22 of the '928 patent and claims 1–22 of the '226 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Realtek Semiconductor Corporation 2 Innovation Road II, Hsinchu Science Park, Hsinchu 300, Taiwan.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

LSI Corporation, 1621 Barber Lane, Milpitas, CA 95305.

Seagate Technology, 10200 S. DeAnza Boulevard, Cupertino, CA 95014.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: October 18, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–26039 Filed 10–22–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701–TA–402 and 731–TA–892 (Second Review); Honey From Argentina; Termination of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The subject five-year reviews were instituted in July 2012 to determine whether revocation of the countervailing duty order and antidumping duty order on imports of honey from Argentina would be likely to lead to continuation or recurrence of material injury. On September 21, 2012, the Department of Commerce published notice that it was revoking the orders effective August 2, 2012, because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline (77 FR 58524). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject reviews are terminated.

DATES: *Effective Date:* September 27, 2012.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained 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*).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: October 18, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–26035 Filed 10–22–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–776]

Certain Lighting Control Devices Including Dimmer Switches and Parts Thereof (IV); Final Determination of Violation; Issuance of a General Exclusion Order and Cease and Desist Orders; and Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation with a finding of violation of section 337, and has issued a general exclusion order directed against infringing lighting control devices including dimmer switches and parts thereof, and cease and desist orders directed against respondents American Top Electric Corp. (''American Top'') and Big Deal Electric Corp. (''Big Deal''), both of Santa Ana, California; Elemental LED, LLC d/b/a Diode LED (''Elemental'') of Emeryville, California; and Zhejiang Yuelong Mechanical and Electrical Co. (''Zhejiang Yuelong'') of Zhejiang, China.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 15, 2011, based on a complaint filed by Lutron Electronics Co., Inc. (''Lutron'') of Coopersburg, Pennsylvania. 76 FR 35015–16. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 lighting control devices including dimmer switches and parts thereof by reason of infringement of certain claims of U.S. Patent No. 5,637,930 (''the '930 patent'') and U.S. Patent No. 5,248,919 (''the '919 patent''). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named the following respondents: American Top; Big Deal; Elemental; Zhejiang Lux Electric Co. Ltd. (''Zhejiang Lux''), Zhejiang Yuelong, and Wenzhou Huir Electric Science & Technology Co. Ltd. (''Wenzhou Huir''), all of Zhejiang, China; Westgate Manufacturing, Inc. (''Westgate'') of Vernon, California; Elemental LED, LLC (''Elemental LED'') and Diode LED (''Diode'') both of Emeryville, California; Pass & Seymour, Inc. (''Pass & Seymour'') of Syracuse, New York; and AH Lighting of Los Angeles, California. The Office of Unfair Import Investigations was named as a party to the investigation.

On September 9, 2011, the Commission issued notice of its

determination not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 9) granting Lutron's motion to amend the complaint and notice of investigation to substitute Elemental LED, LLC d/b/a Diode LED (''Elemental'') as a respondent in place of Elemental LED and Diode. On November 22, 2011 and February 27, 2012, respectively, the Commission issued notices of its determinations not to review the ALJ's IDs (Order Nos. 10 and 15) terminating Pass & Seymour and AH Lighting from the investigation based on consent orders.

On December 12, 2011, the ALJ issued an ID (Order No. 11) finding Elemental in default under Commission Rule 210.16(b)(3) based on its own election. On January 17, 2012, the Commission issued notice of its determination to review the ID, and on review to find Elemental in default under Commission Rules 210.16(a)(2) and (b)(2). Also, on January 17, 2012, Westgate filed a notice electing to default. On March 5, 2012, the ALJ issued an ID (Order No. 17) finding Westgate in default under Commission Rules 210.16(a)(2) and (b)(2). In the same ID, the ALJ found respondents Big Deal, American Top, Wenzhou Huir, Zhejiang Yuelong, and Zhejiang Lux in default under Commission Rule 210.16 for failing to respond to the complaint and notice of investigation, and for failing to respond to the show cause order issued on February 8, 2012 (Order No. 14). On March 21, 2012, the Commission issued notice of its determination not to review the ID finding these six respondents in default.

On January 20, 2012, Lutron filed a motion for summary determination of violation of section 337 pursuant to Commission Rule 210.16(c)(2) and requested entry of a general exclusion order with respect to the '930 patent. Lutron also requested entry of a limited exclusion order with respect to the '919 patent directed against the accused products of all defaulting respondents. Lutron further requested cease and desist orders with respect to both asserted patents against all defaulting respondents, except for Westgate. The Commission investigative attorney (''IA'') filed a response supporting the motion.

The ALJ issued the subject ID on June 7, 2012, granting in-part the motion for summary determination. The ALJ found that all defaulting respondents met the importation requirement and that complainant satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1)(B), (a)(2). He found that each of the defaulting respondents' accused products infringe one or more of the asserted claims of the '930 patent, except for one accused product with respect to claim 178. He found that the defaulting respondents infringe the asserted claims of the '919 patent in accordance with Commission Rule 210.16(c). The ID also contained the ALJ's recommended determination on remedy and bonding. Specifically, the ALJ recommended issuance of a limited exclusion order with respect to all defaulting respondents for the asserted claims of both asserted patents. Also, he recommended cease and desist orders directed against domestic respondents Big Deal, American Top, and Elemental with respect to the asserted claims of both asserted patents. The ALJ further recommended that the Commission set a bond of 100 percent of the entered value of the covered products during the period of Presidential review.

On July 19, 2012, the Commission issued notice of its determination to review-in-part the ALJ's ID. On review, the Commission vacated all portions of the ID relating to the '919 patent because the patent expired on March 31, 2012. The Commission determined not to review the remainder of the ID. The Commission also requested written submissions on the issues of remedy, the public interest, and bonding from the parties and interested non-parties. 77 FR 43612–14 (July 25, 2012). On August 2 and 9, 2012, respectively, Lutron and the IA each filed a brief and a reply brief regarding remedy, the public interest, and bonding.

The Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is both: (1) a general exclusion order prohibiting the unlicensed entry of lighting control devices including dimmer switches and parts thereof that infringe one or more of claims 36, 65, 94, and 178 of the '930 patent; and (2) cease and desist orders prohibiting American Top, Big Deal, Elemental, and Zhejiang Yuelong from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, lighting control devices including dimmer switches and parts thereof that infringe one or more of claims 36, 38–41, 53–56, 58, 60, 65, 67–70, 76, 82–83, 85, 87, 89, 94, 96–99, 105, 111–112, 114, 116, 118, 178, 180, 189, 193, and 197 of the '930 patent.

The Commission further determined that the public interest factors enumerated in sections 337(d)(1) and (g)(1) (19 U.S.C. 1337(d)(1), (g)(1)) do not preclude issuance of the general exclusion order or the cease and desist orders. Finally, the Commission determined that there shall be a bond in the amount of 100% of the entered value of the covered products to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR § 210.50).

By order of the Commission.

Issued: October 17, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–26042 Filed 10–22–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office on Violence Against Women; Charter Reestablishment

AGENCY: Office on Violence Against Women, United States Department of Justice.

ACTION: Notice of Charter Reestablishment.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.2), and Title IX of the Violence Against Women Act of 2005 (VAWA 2005), the Attorney General has determined that the reestablishment of the Task Force on Research on Violence Against American Indian and Alaska Native Women (hereinafter ''the Task Force'') is necessary and in the public interest and will provide information that will assist the National Institute of Justice (NIJ) to develop and implement a program of research on violence against American Indian and Alaska Native women, including domestic violence, dating violence, sexual assault, stalking, and murder. The program of research will evaluate the effectiveness of the Federal, state, and tribal response to violence against Indian women and will propose recommendations to improve these responses. Title IX of VAWA 2005 also required the Attorney General to establish a Task Force to assist NIJ with development of the research study and

the implementation of the recommendations. The Attorney General, acting through the Director of the Office on Violence Against Women, originally established the Task Force on March 31, 2008. The Charter to reestablish the Task Force was filed with Congress on October 4, 2012. The Task Force is comprised of representatives from national tribal domestic violence and sexual assault nonprofit organizations, tribal governments, and national tribal organizations. Task Force members, with the exception of travel and per diem for official travel, shall serve without compensation. The Director of the Office on Violence Against Women shall serve as the Designated Federal officer for the Task Force.

FOR FURTHER INFORMATION CONTACT: Lorraine Edmo, Deputy Tribal Director, Office on Violence Against Women, United States Department of Justice, 145 N Street NE., Suite 10W.121, Washington, DC 20530.

Dated: October 17, 2012.

Virginia Davis,

Acting Director, Deputy Director for Policy Development, Office on Violence Against Women.

[FR Doc. 2012–26085 Filed 10–22–12; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Filing of Proposed Settlement Agreement Resolving Bankruptcy Proofs of Claim Relating to the Breslube-Penn Superfund Site

On October 17, 2012, a proposed Settlement Agreement was filed, on behalf of the United States and others, with the United States Bankruptcy Court for the District of Delaware in the proceeding entitled *In re: Hussey Copper Corp., et al.,* Bkr. Case No. 11–13010 (BLS).

Pursuant to an August 2009 Consent Decree, debtors Hussey Copper Corp. and HCL Liquidation Ltd. f/k/a Hussey Copper Ltd. (''Debtors'') are jointly and severally obligated to perform a remedial design and remedial action, and to take certain other actions, related to the Breslube Penn Superfund Site, located near Pittsburgh at 84 Montour Road, Coraopolis, Pennsylvania. Debtors filed bankruptcy petitions on September 27, 2011, and the United States filed proofs of claim numbers 538 and 539 in March 2012. The proposed Settlement Agreement resolves these proofs of claims by providing for an allowed claim in the amount of $300,000 against each Debtor, as well as release of all proceeds of a related $163,507 letter of credit to the remaining parties that are implementing the 2009 Consent Decree. Those parties also filed a proof of claim that is resolved by the proposed Settlement Agreement.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re: Hussey Copper Corp., et al.,* Bkr. Case No. 11–13010 (BLS), D.J. Ref. No. 90–11–3–1762/6. All comments must be submitted no later than twenty (20) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Settlement Agreement may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $3.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–26010 Filed 10–22–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. 552b)

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:00 a.m., on Tuesday, October 16, 2012, at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss original jurisdiction cases pursuant to 28 C.F.R. Section 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Jr., Cranston J. Mitchell, Patricia K. Cushwa, J. Patricia Wilson Smoot and Charles T. Masserone.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: October 16, 2012.

Isaac Fulwood, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 2012–26114 Filed 10–19–12; 11:15 am]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Renewal of the Bureau of Labor Statistics Technical Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Technical Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures.

The Committee functions solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Provide comments on papers and presentations developed by BLS research and program staff. The

comments will advise BLS as to whether the academic community will regard the work as being technically sound and reflecting best practices in the relevant fields.

b. Conduct research on issues identified by BLS on which an objective technical opinion or recommendation from outside of BLS would be valuable.

c. Recommend BLS conduct internal research projects to address technical problems with BLS statistics that have been identified in the academic literature.

d. Participate in discussions of areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

e. Establish working relationships with professional associations with an interest in BLS statistics, such as the American Statistical Association and the American Economic Association.

The Committee will report to the Commissioner of Labor Statistics.

The Committee consists of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are economists, statisticians, and behavioral scientists and will be chosen to achieve a balanced membership across those disciplines. They are prominent experts in their fields and recognized for their professional achievements and objectivity.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Cheryl Kerr, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–7808, email: *kerr.cheryl@bls.gov.*

Signed at Washington, DC this 17th day of October 2012.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2012–26006 Filed 10–22–12; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 77 FR 49832. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Comments: Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton at (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for the Research Experiences for Undergraduates (REU) Program.

OMB Number: 3145–NEW.

Type of Request: Intent to seek approval to establish an information collection.

Abstract

Proposed Project

The Research Experiences for Undergraduates (REU) Reporting Module is a component of the NSF Project Reports System that is designed to gather information about students participating in Research Experiences for Undergraduates (REU) Sites and Supplements projects. All NSF projects are required to use the FastLane Project Reports System for developing and submitting annual and final project reports. If NSF cannot collect information about undergraduate participants in undergraduate research experiences, NSF will have no other means to consistently document the number and diversity of participants, types of participant involvement in the research, and types of institutions represented by the participants.

NSF is committed to providing program stakeholders with information regarding the expenditure of taxpayer funds on these types of experiences, which provide training for postsecondary students in basic and applied research in STEM.

Background

All NSF grantees are required to use the FastLane Project Reports System for reporting progress, accomplishments, participants, and activities annually and at the conclusion of their project. Information from annual and final reports provides yearly updates on project inputs, activities, and outcomes for agency reporting purposes. If project participants include undergraduate students supported by the Research Experiences for Undergraduates (REU) Sites Program or by an REU Supplement, then the grantees and their students are required to complete the REU Reporting Module.

Respondents: Individuals (Principal Investigators and REU undergraduate student participants).

Number of Principal Investigator Respondents: 2,000.

Burden on the Public: 650 total hours.

Number of REU Student Participant Respondents: 7,250.

Burden on the Public: 1,810 total hours.

Dated: October 15, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–26038 Filed 10–22–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of a permit modification issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit modifications issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 22, 2012, the National Science Foundation published a notice in the **Federal Register** of a permit modification request received. The permit modification was issued on October 17, 2012 to:

David Ainley Permit No. 2011–002 Mod. #3

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012–25990 Filed 10–22–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On June 19, 2012, August 31, 2012, and September 12, 2012, respectively, the National Science Foundation published notices in the **Federal Register** of a permit application received. Permits were issued on October 15, 2012 to:

Celia Lang Permit No. 2013–008

Celia Lang Permit No. 2013–019

Celia Lang Permit No. 2013–020

Larissa Min Permit No. 2013–021

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012–25991 Filed 10–22–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Mathematical and Physical Sciences Advisory Committee (66).

Date/Time: November 8, 2012 1:00 p.m.–5:00 p.m.; November 9, 2012 10:30 a.m.–2:30 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Room 1235

Type of Meeting: Open.

Contact Person: Dr. Mark A. Suskin, Acting Deputy Assistant Director, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8807.

Purpose of Meeting: To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

Agenda: Update on current status of Directorate Report of MPS Advisory Working Group on Expeditions in Education Meeting of MPSAC with Divisions within MPS Directorate Discussion of MPS Long-term Planning Activities.

Summary Minutes: May be obtained from the contact person listed above.

Dated: October 18, 2012.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2012–26059 Filed 10–22–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–3392; License No. SUB–526; EA–12–157; NRC–2012–0244]

Confirmatory Order; In the Matter of Honeywell International Inc.; Metropolis, Illinois

I.

Honeywell International Inc. (Honeywell or Licensee) is the holder of Materials License No. SUB–526, issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) part 40. Originally issued on December 17, 1958, the license has been renewed many times, most recently on May 11, 2007. The license authorizes the operation of Honeywell's Metropolis Works facility in accordance with the conditions specified therein. The facility is located in Metropolis, Illinois.

II.

From May 21 through 24, 2012, an NRC inspection was conducted at the Metropolis Works facility pursuant to NRC Temporary Instruction (TI) 2600/015, ''Evaluation of Licensee Strategies for the Prevention and/or Mitigation of Emergencies at Fuel Facilities.'' The objective of the TI inspection was to independently verify that Honeywell is adequately prepared to prevent and/or mitigate the consequences of selected safety/licensing basis events and to evaluate the adequacy of those emergency prevention and/or mitigation strategies for dealing with the consequences of selected beyond-safety/licensing basis events. At the time of the inspection, the Metropolis Works facility had been shut down since May 9, 2012, for a planned maintenance outage.

The inspection identified significant concerns related to Honeywell's Uranium Hexafluoride (UF_6) and Hydrogen Fluoride (HF) source terms, used as a basis for the Honeywell Emergency Response Plan (ERP). Specifically, the inspection identified that the design of the process equipment in the Feed Materials Building at the Metropolis Works facility lacks seismic restraints, supports, and bracing that would assure process equipment integrity during a credible seismic event or tornado. Because the Metropolis Works facility was shut down for a planned maintenance outage, no immediate safety concern existed. The NRC concluded, however, that the potential consequences of the inspection findings were significant.

Specifically, when the Metropolis Works facility was operating, the amount of UF_6 that could have been released during a credible seismic event or tornado was significantly larger than that assumed in the development of the facility's ERP.

The inspection results were documented in NRC Inspection Report No. 40–3392/2012–006, issued on August 9, 2012. At that time, the NRC identified two apparent violations.

First, contrary to 10 CFR 40.31(j)(3), on May 27, 2005, Honeywell submitted an ERP that did not include an identification of each type of accident for which protective actions may be needed. Specifically, the ERP submitted by Honeywell did not identify accident sequences related to credible seismic and tornado events that could result in large UF_6 releases for which protective actions may be needed.

Second, contrary to 10 CFR 40.9(a), certain information Honeywell is required to maintain by license condition is not complete and accurate in all material respects. Under License Condition 18, Honeywell is required to conduct authorized activities at the Metropolis Work facility in accordance with the statements, representation, and conditions in its Integrated Safety Analysis (ISA) Summary (License Condition 18.D). The ISA Summary states, in part, that ''the plant is designed to withstand the 475-yr earthquake with no safety implications.'' The NRC's May 2012 inspection identified, however, that the ground motion associated with a 475-yr earthquake would have safety implications due to the design of the Metropolis Works facility. This apparent inaccuracy is material to the NRC because it involves information the NRC staff reasonably considers as part of its oversight of Honeywell as a licensee.

Concurrent with ongoing NRC review of the inspection results and to address immediate Agency concerns, on July 13, 2012, the NRC issued a Confirmatory Action Letter (CAL) to Honeywell. The CAL confirmed commitments made by Honeywell to ensure that, before licensed operations resumed, the Metropolis Works facility's ERP would be revised so that it is consistent with design and operational limitations for all potentially affected processes. This Confirmatory Order will supersede the CAL issued on July 13, 2012. This Order provides the basis for Honeywell to implement corrective actions prior to resuming NRC licensed operations.

III.

The NRC concludes that significant corrective actions at the Metropolis Work facility are necessary to provide reasonable assurance of public health and safety. The NRC further concludes that formalizing the corrective actions proposed by Honeywell necessitates the issuance of this Confirmatory Order. Consistent with Section 3.7 of the NRC's Enforcement Policy, the NRC is issuing this Confirmatory Order in lieu of issuance of a Notice of Violation and consideration of civil penalties for the apparent violations described above.

On October 11, 2012, Honeywell consented to issuance of this Order with the commitments described in Section IV below. Honeywell further agreed that this Order will be effective 30 days from issuance and waived its right to a hearing on this Order.

I find that the Licensee's commitments described in Section IV are acceptable and necessary and conclude that, with these commitments, the Metropolis Works facility's safety and the safety of the public is reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order will be effective 30 days from issuance. Contingent upon the Licensee satisfying its commitments under this Order, the NRC will not pursue further enforcement action based on the two apparent violations described in Section II of this Order.

IV.

Accordingly, pursuant to Sections 61, 63, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 40, *it is hereby ordered that license no.* SUB–526 IS *modified as follows:*

1. Honeywell shall submit to the Director, NRC Office of Nuclear Material Safety and Safeguards, the following documentation for review:

a. An evaluation of external events at the Metropolis Works facility that clearly defines and provides the safety bases for:

i. Seismic and wind design;

ii. The structures, systems, or components relied upon to protect workers and the public during both intermediate and high consequence events;

iii. The definitions of ''intermediate-consequence event'' and ''high-consequence event'' for non-radiological releases; and

iv. The definitions of ''unlikely'' and ''highly unlikely'' for seismic and wind events.

b. A revised ERP (License Condition 24) that, consistent with the evaluation produced in response to Item 1.a, defines all planning bases and articulates all necessary modifications to the Metropolis Works facility.

c. Documentation of the design bases for the proposed modifications to the Metropolis Works facility that will be needed to satisfy Items 1.a and 1.b (e.g., design criteria, engineering methodology, application of Codes and Standards).

2. Honeywell shall develop, implement, and have available for NRC inspection the quality assurance measures for the modifications referred to in Item 1.c. These quality assurance measures shall address, at a minimum, the following areas: design, procurement, inspections and tests, installation, document control, procedures and drawings, and records.

3. Honeywell shall implement the modifications referred to in Item 1.c before seeking to resume NRC-licensed operations at the Metropolis Works facility.

4. After Honeywell completes Items 1–3 and the NRC verifies the acceptability of the facility modifications referred to in Item 1.c, Honeywell may seek NRC approval to resume licensed operations at the Metropolis Works facility. Honeywell shall submit its request to the NRC in writing at least 30 days before it intends to resume licensed operations at the Metropolis Works facility. Honeywell shall not resume licensed operations until the NRC grants its request in writing.

5. At least 15 days before resuming licensed operations at the Metropolis Works facility, Honeywell shall demonstrate the adequacy of its revised ERP by conducting an onsite exercise meeting the requirements in 10 CFR 40.31(j)(3)(xii).

6. Honeywell shall submit a revised ISA Summary (License Condition 18.D) to the NRC no later than six months after resuming licensed operations at the Metropolis Works facility.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Honeywell of good cause.

V.

Any person adversely affected by this Confirmatory Order, other than Honeywell, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 245 Peachtree Center Avenue NE., Suite 1200, Atlanta, GA, 30303–1257, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in

accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at MSHD.Resource@nrc.gov, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than Honeywell) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 C.F.R. 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated this 15th day of October, 2012.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Regional Administrator.

[FR Doc. 2012–26052 Filed 10–22–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0250]

Computational Fluid Dynamics Best Practice Guidelines for Dry Cask Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is requesting public comments on draft NUREG–2152, ''Computational Fluid Dynamics Best Practice Guidelines for Dry Cask Applications.'' The draft NUREG–2152 report provides best practice guidelines for undertaking simulations used to evaluate the thermal response of dry casks. Dry cask applications include transfer, transport, and storage. First, the different sources of errors and uncertainties known to occur in numerical simulation results are listed and defined. The sources of error that can be controlled and quantified by the user are then discussed in detail, and best practice guidelines for their reduction and quantification are given. These best practice guidelines are based on available guidelines as much as possible.

DATES: Comments may be submitted by December 24, 2012. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0250. You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0250. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jorge Solis, Senior Thermal Engineer, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission Washington, DC 20005–0001; telephone: 301–492–3282; email: *Jorge.Solis@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0250 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0250.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The draft NUREG–2152 is located in ADAMS under Accession Number ML12286A301.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0250 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will posts all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The purpose of this notice is to provide the public with an opportunity to review and solicit comments on the draft NUREG–2152, ''Computational Fluid Dynamics Best Practice Guidelines for Dry Cask Applications.'' These comments will be considered in the final version or subsequent revisions.

Dated at Rockville, Maryland, this 16 day of October, 2012.

For the Nuclear Regulatory Commission.

Michele Sampson,

Chief, Thermal and Containment Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 2012–26047 Filed 10–22–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219; NRC–2009–0320]

Exelon Generation Company, LLC; Oyster Creek Nuclear Generating Station; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on April 8, 2011 (76 FR 19795), that incorrectly described Sections 3.9.2 and 3.18.2, ''Detection, Control, and Extinguishment.'' This action is necessary to correct erroneous information.

FOR FURTHER INFORMATION CONTACT: John G. Lamb, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3100, email: *John.Lamb@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 19805, in the first column, in the third complete paragraph, it is corrected to read from, ''The licensee stated that RB–FZ–1E has an area-wide smoke detection system and an automatic fixed deluge water spray system installed over cable trays and open hatches. The deluge suppression system protecting safety-related cable trays is automatically activated by a cross-zoned detection system consisting of linear heat detection wire located on top of the cables in each original safety-related cable trays and smoke detectors are located in each beam pocket at the ceiling,'' to ''The licensee stated that RB–FZ–1E has a smoke detection system and an automatic fixed deluge water spray system installed over cable trays and open hatches. The deluge suppression system protecting safety-related cable trays is automatically activated by a cross-zoned detection system.''

On page 19812, in the first column, in the second complete paragraph, it is corrected to read from, ''The licensee stated that a closed head automatic sprinkler and spray systems protect the south end basement area and the hydrogen seal oil unit,'' to ''The closed head automatic sprinkler system in the condenser bay area was designed, installed and tested in accordance with NFPA 13, 1976 Edition, which was the latest edition of this code at the time of design.''

Dated in Rockville, Maryland, this 15th day of October 2012.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–26051 Filed 10–22–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2012–0002].

DATES: Weeks of October 22, 29, November 5, 12, 19, 26, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 22, 2012

Tuesday, October 23, 2012

9:25 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Exelon Generation Company, LLC (Limerick Generating Station, Units 1 and 2), Exelon's Notice, and Brief, of Appeal of LBP–12–8 (Apr. 16, 2012); NRC Staff's Notice, and Brief, of Appeal of LBP–12–8 (Apr. 16, 2012) (Tentative)

b. Final Rule: Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions (RIN 3150–AH15) (Tentative)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

9:30 a.m. Strategic Programmatic Overview of the Spent Fuel Storage and Transportation and Fuel Facilities Business Lines (Public Meeting) (Contact: Kevin Mattern, 301–492–3221)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of October 29, 2012—Tentative

Tuesday, October 30, 2012

9:00 a.m. Briefing on Fort Calhoun (Public Meeting) (Contact: Michael Hay, 817–200–1527)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of November 5, 2012—Tentative

Monday, November 5, 2012

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Thursday, November 8, 2012

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2)

Week of November 12, 2012—Tentative

There are no meetings scheduled for the week of November 12, 2012.

Week of November 19, 2012—Tentative

There are no meetings scheduled for the week of November 19, 2012.

Week of November 26, 2012—Tentative

Tuesday, November 27, 2012

9:00 a.m. Briefing on Operator Licensing Program (Public Meeting) (Contact: Jack McHale, 301–415–3254)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Thursday, November 29, 2012

2:30 p.m. Briefing on Security issues (Closed Ex-1)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

October 18, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–26180 Filed 10–19–12; 4:15 pm]

BILLING CODE 7590–01–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice-PCLOB–2012–01; Docket No. 2012–0013; Sequence No. 1]

Sunshine Act; Notice of Meeting

TIME AND DATE: 10:00 a.m. to 1:00 p.m. (Eastern Time), Tuesday, October 30, 2012.

PLACE: GSA's National Capital Region Building, 301 7th Street SW., Conference Room 6067B (6th Floor), Washington, DC 20207.

STATUS: Parts will be open to the public and parts will be closed to the public.

Matters To Be Considered

Portion Open to the Public: 10:00 a.m. to Noon.

The Privacy and Civil Liberties Oversight Board will hold its first public meeting for the purpose of receiving the

public's input on its forthcoming agenda. In anticipation of setting the agenda of issues on which the Board will focus its attention, the Board would welcome the views of nongovernmental organizations and members of the public. The Board expects to hold further meetings to consider particular issues in greater depth.

Procedures

Individuals wishing to address the meeting orally must provide advance notice to Matthew Conrad, at *matthew.conrad@gsa.gov* no later than 5:00 p.m. Friday, October 26, 2012. The notice must include the individual's name, title, organization, and a concise summary of the subject matter to be presented. Oral presentations may not exceed ten (10) minutes. The time for individual presentations will be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard. Participants wishing to submit a written statement for the record must submit a copy of such statement no later than 5:00 p.m. Friday, October 26, 2012. Such statement must be typewritten, double-spaced, and may not exceed ten (10) pages. Upon receipt of the required notice, the Board will prepare an agenda, which will be available at the hearing, that identifies speakers and the time allotted for each presentation.

Portion Closed to the Public: Noon to 1:00 p.m.

Matters To Be Discussed

Personnel and staffing.

CONTACT PERSON FOR MORE INFORMATION: Matthew B. Conrad, Agency Liaison Division, U.S. General Services Administration, 202–690–8906.

Dated: October 18, 2012.

Patricia Wald,

PCLOB Member.

[FR Doc. 2012–26153 Filed 10–19–12; 11:15 am]

BILLING CODE 6820–34–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 25, 2012 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, October 25, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: October 18, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–26149 Filed 10–19–12; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meetings.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the 1st quarter meetings of the National Small Business Development Center (SBDC) Advisory Board.

DATES: The meetings for the 3rd quarter will be held on the following dates:

Tuesday, October 16, 2012 at 1:00 p.m. EST,

Tuesday, November 20, 2012 at 1:00 p.m. EST,

Tuesday, December 18, 2012 at 1:00 p.m. EST.

ADDRESSES: These meetings will be held via conference call.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of these meetings is to discuss following issues pertaining to the SBDC Advisory Board:

—SBA Update
—Annual Meetings
—Board Assignments
—Member Roundtable

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by fax or email. Her contact information is Alanna Falcone, Program Analyst, 409 Third Street SW., Washington, DC 20416, Phone, 202–619–1612, Fax 202–481–0134, email, *alanna.falcone@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Dan S. Jones,

Committee Management Officer.

* **Note:** Late notice for October meeting due to last minute rescheduling to accommodate board members travel agendas.

[FR Doc. 2012–25688 Filed 10–22–12; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Environmental Impact Statement (DEIS), Draft Section 4(f) Evaluation, Notice of ANILCA Title XI evaluation, and Notice of Public Comment Period and Schedule of Public Information Meeting and Public Hearing for the DEIS for Proposed Runway Safety Area Improvements at the Kodiak Airport, Kodiak, AK

AGENCY: Federal Aviation Administration (FAA). U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), and National Marine Fisheries Services (NMFS) are cooperating agencies, by virtue of their jurisdictional authority and/or resource management responsibilities.

ACTION: Notice of availability, notice of comment period, notice of public information meeting and public hearing.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and Council on Environmental Quality regulations (40 CFR Part 1500–1508) the Federal Aviation Administration is issuing this notice to advise the public that a Draft Environmental Impact Statement (DEIS) for proposed Runway Safety Area improvements at the Kodiak Airport (ADQ) has been prepared and is available for public review and comment. Included in the DEIS is a draft evaluation pursuant to Section 4(f) of the Department of Transportation Act of 1966 (recodified at 49 U.S.C. § 303(c)). Written requests for the DEIS and written comments on the DEIS can be submitted to the individual listed in the section, **FOR FURTHER INFORMATION CONTACT**. A public hearing will be held on December 6, 2012. The public comment period will commence on October 19, 2012 and will close on December 18, 2012.

Public Comment and Information Meetings/Public Hearings: The start of the public comment period on the DEIS will be October 19, 2012 and will end on December 18, 2012. One combined public information meeting and public hearing will be held on December 6, 2012. The public information meeting on Thursday, December 6, 2012 will begin at 5:00 p.m. (ADT) and will last until 6:00 p.m. (ADT). The public hearing on that date will begin after the public information meeting, at 6:00 p.m. (ADT) and will last until 8:00 p.m. (ADT). The location for the Public Information Meeting/Public Hearing is the Kodiak Harbor Convention Center, 211 East Rezanof Drive, Kodiak AK 99615.

DEIS Availability and Review

Copies of the DEIS may be viewed during regular business hours at the following locations:

1. Federal Aviation Administration, Airports Division, 222 W. 7th Avenue #14, Anchorage, AK 99513–7504. (907) 271–5453.
2. Holmes Johnson Memorial Library, 319 Lower Mill Bay Road, Kodiak, AK 99615. (907) 486–8680.
3. Alaska Department of Transportation and Public Facilities, 4111 Aviation Avenue, Anchorage AK 99502.
4. Online at *www.kodiakairporteis.com.*

The Federal Aviation Administration, Airports Division has a limited number of CDs of the entire DEIS and the Executive Summary available for public distribution. Please contact the Federal Aviation Administration at (907) 271–5438 for a copy.

Comments from interested parties on the DEIS are encouraged and may be presented orally at the public hearing. Written comments may be submitted to the FAA during the public information meeting and hearing and through December 18, 2012 at the address listed in the section titled FOR FURTHER INFORMATION CONTACT. On-line comments may be submitted through the end of the comment period using the form provided at the project Web site *www.kodiakairporteis.com* by following the links to the PUBLIC COMMENT FORM. Additionally, comments can be emailed to *Leslie.Grey@faa.gov.*

The FAA encourages all interested parties to provide comments concerning the scope and content of the DEIS. Comments should be as specific as possible and may address such topics as the adequacy of the DEIS (e.g., the analysis of alternatives and potential environmental impacts), the merits of the alternatives, and the mitigation being considered. Reviewers should organize their participation so that it is meaningful and makes the agency aware of the reviewer's interests and concerns by using quotations and other specific references to the text of the DEIS and related documents. Matters that could have been raised with specificity during the comment period on the DEIS may not be considered if they are raised later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

SUPPLEMENTARY INFORMATION: Based on FAA safety standards, the Kodiak Airport Master Plan identified a Runway Safety Area deficiency for two of Kodiak Airport's three runways. The DEIS discusses proposed improvements to the Runway Safety Areas for Runway 07/25 and Runway 18/36, which have the potential to result in significant adverse environmental impacts. The purpose and need for the project is to improve the Runway Safety Areas for Runway 07/25 and Runway 18/36 to the extent practicable; the purpose and need is discussed in detail in the DEIS. The DEIS also discusses various alternatives, including the no-action alternative.

The FAA and the State of Alaska Department of Transportation and Public Facilities (ADOT&PF) propose the following actions to meet the needs for improved Runway Safety Areas:

- Improvements to the Runway Safety Area for Runway 07/25.
- Improvements to the Runway Safety Area for Runway 18/36.

The proposed Airport improvements would be completed during the 2014–2015 time period. Potential environmental effects include temporary and long-term impacts to the marine environment and wildlife (including species protected under the Endangered Species Act); water quality; wetlands; historical and cultural resources; terrestrial wildlife and vegetation; socioeconomic conditions; subsistence activities; environmental justice; and resources protected under Section 4(f) of the Department of Transportation Act of 1966 (recodified at 49 U.S.C. 303(c)), which include the Alaska National Maritime Wildlife Refuge and the Buskin State Recreation Site.

The improvements to the Runway Safety Areas would occur within waters that are part of the Alaska National Maritime Wildlife Refuge and would affect lands established by the Alaska National Interests Land Conservation Act (ANILCA). As such, ADOT&PF, the project sponsor, has prepared an application under ANILCA for the use of lands through the ANILCA Title XI process.

FOR FURTHER INFORMATION CONTACT: Leslie Grey, Environmental Specialist, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue #14, Anchorage, AK 99513–7504. Ms. Grey may be contacted during business hours at (907) 271–5453 (phone) and (907) 271–2851 (facsimile).

The comment period will close on December 18, 2012.

Issued in Anchorage, Alaska on October 5, 2012.

Byron K. Huffman,

Manager, Airports Division, Alaskan Region.

[FR Doc. 2012–26041 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourth Meeting: RTCA Special Committee 227, Standards of Navigation Performance

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

ACTION: Meeting Notice of RTCA Special Committee 227, Standards of Navigation Performance.

SUMMARY: The FAA is issuing this notice to advise the public of the fourth meeting of the RTCA Special Committee 227, Standards of Navigation Performance.

DATES: The meeting will be held November 12–16, 2012 from 9:00 a.m.–

5:00 p.m. Contact Dave Nakamura by telephone at 425–965–6896 or email *dave.nakamura@boeing.com.*

ADDRESSES: The meeting will be held at RTCA, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0662 or (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 227. The agenda will include the following:

November 12–16, 2012

- Welcome/Introductions/ Administrative Remarks
- Agenda Overview
- Review Minutes and Action Items
  - Update/Approve Minutes
- Review of Planned Work Program for the Week
- Plenary Review/Acceptance of MASPS changes
- Technical Requirements Breakout Session (Every day as appropriate)
- Other Business
- Next Meeting Discussion
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 15, 2012.

Kathy Hitt,

Management Analyst, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2012–26034 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixteenth Meeting: RTCA Special Committee 224, Airport Security Access Control Systems

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

ACTION: Meeting Notice of RTCA Special Committee 224, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of the sixteenth meeting of the RTCA Special Committee 224, Airport Security Access Control Systems.

DATES: The meeting will be held November 15, 2012 from 9:00 a.m.–4:00 p.m.

ADDRESSES: The meeting will be held at RTCA, 1150 18th Street NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 224. The agenda will include the following:

November 15, 2012

- Welcome/Introductions/ Administrative Remarks
- Review/Approve Summary of Fifteenth Meeting
- Updates from TSA (as required)
- Section Reports
- Times and Place of Next Meeting
- Other Business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 15, 2012.

Kathy Hitt,

Management Analyst, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2012–26033 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Seattle-Tacoma International Airport, Seattle, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Seattle-Tacoma International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before November 23, 2012.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Ms. Carol Suomi, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue SW., Suite 250, Renton, Washington 98057–3356.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Allan Royal, Port of Seattle Real Estate Development, at the following address: Mr. Allan Royal, Port of Seattle Real Estate Development, P.O. Box 68727, Seattle, Washington, 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Doyle, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue SW., Suite 250, Renton, Washington 98057–3356.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Seattle-Tacoma International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On August 28, 2012, the FAA determined that the request to release property at Seattle-Tacoma International Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than November 23, 2012.

The following is a brief overview of the request:

The Seattle-Tacoma International Airport is proposing the release of approximately 40,418 square feet of airport property to Sound Transit for expansion of the Link Light Rail. This property is needed to facilitate the next phase of development which will extend the light rail line 1.6 miles from the airport station to South 200th Street in the City of SeaTac, WA. The revenue made from this sale will be used toward an approved noise compatibility project, or an eligible project under the Airport Improvement Program.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Seattle-Tacoma International Airport, 17801 International Blvd., Seattle, Washington 98158.

Issued in Renton, Washington on September 26, 2012.

Carol Suomi,

Manager, Seattle Airports District Office.

[FR Doc. 2012–26005 Filed 10–22–12; 8:45 am]

BILLING CODE M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0280]

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 14 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 November 23, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0280 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 14 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

Lazaro R. Apiau

Mr. Apiau, age 52, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/15, and in his left eye, 20/200. Following an examination in 2012, his ophthalmologist noted, ''I believe that Mr. Apiau has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Apiau reported that he has driven straight trucks for 3 years, accumulating 60,000 miles, and tractor-trailer combinations for 22 years, accumulating 2.6 million miles. He holds a Class A Commercial Driver's License (CDL) from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald J. Bergman

Mr. Bergman, 52, has loss of vision in his right eye due to a pituitary tumor that was removed in 2008. The visual acuity in his right eye is 20/50, and in his left eye, 20/15. Following an examination in 2012, his ophthalmologist noted, ''In my medical opinion, Mr. Bergman's vision is good enough for him to drive commercial vehicles safely.'' Mr. Bergman reported that he has driven straight trucks for 5 years, accumulating 125,000 miles, and tractor-trailer combinations for 26 years, accumulating 1.9 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Noah E. Bowen

Mr. Bowen, 29, 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, 20/200. Following an examination in 2012, his optometrist noted, ''It is my medical opinion that Noah Bowen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bowen reported that he has driven straight trucks for 11 years, accumulating 1.6 million miles, and tractor-trailer combinations for 8 years, accumulating 1.6 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes but two convictions for

moving violations in a CMV; one conviction was for failure to obey a traffic device, and one conviction was for speeding in a CMV. He exceeded the speed limit by 9 mph.

William J. Hall

Mr. Hall, 55, has iris damage in his right eye due to a traumatic injury sustained 40 years ago. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''I certify that Mr. Hall has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hall reported that he has driven straight trucks for 4 years, accumulating 47,544 miles, and tractor-trailer combinations for 19 years, accumulating 304,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark L. Julin

Mr. Julin, 61 has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, ''In my opinion, Mark Julin has the ability to operate a commercial vehicle. He has longstanding amblyopia in his left eye. His visual fields prove his peripheral vision in each eye is excellent.'' Mr. Julin reported that he has driven straight trucks for 15 years, accumulating 1.3 million miles, and tractor-trailer combinations for 14 years, accumulating 140,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joshua D. Kelly

Mr. Kelly, 26, has loss of vision in his right eye due to cancer on the optic nerve head since 2002. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''Many people do drive with only good vision in one eye and he has sufficient vision in his left eye to operate a commercial vehicle.'' Mr. Kelly reported that he has driven tractor-trailer combinations for 3 years, accumulating 46,800 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.

Shelby M. Kuehler

Mr. Kuehler, 33, has aphakia in his right eye due to a traumatic incident at 8 weeks of age. The best corrected visual acuity in his right eye is 20/350, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''In my medical opinion, Shelby has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Kuehler reported that he has driven straight trucks for 7 years, accumulating 210,000 miles. He holds a Class C operator's license from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lawrence D. Malecha

Mr. Malecha, 49, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''It is my professional opinion that Mr. Malecha has sufficient vision to perform the driving tasks required to operate a commercial vehicle for interstate travel.'' Mr. Malecha reported that he has driven straight trucks for 20 years, accumulating 300,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Glenn C. Medeiros

Mr. Medeiros, 39, has had a macular cyst in his left eye since birth. 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, ''It is my opinion that Mr. Medeiros is visually capable to perform the driving tasks required to operate a commercial vehicle.'' Mr. Medeiros reported that he has driven straight trucks for 19 years, accumulating 304,000 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.

Jay C. Naccarato

Mr. Naccarato, 48, 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, 20/200. Following an examination in 2012, his optometrist noted, ''I certify, in my medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Naccarato reported that he has driven tractor-trailer combinations for 34 years, accumulating 1 million miles, and tractor-trailer combinations for 14 years, accumulating 105,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul B. Overman

Mr. Overman, 57, has complete loss of vision in his left eye due to a traumatic incident that occurred in 1995. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2012, his ophthalmologist noted, ''In my medical opinion, Mr. Overman's vision is entirely sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Overman reported that he has driven straight trucks for 39 years, accumulating 234,000 miles, and tractor-trailer combinations for 35 years, accumulating 140,000 miles. He holds Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Reginald I. Powell

Mr. Powell, 59, has a retinal fold in his right eye due to a traumatic incident that occurred in 1983. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''It is in my medical opinion that the patient should be able to drive as long as he is wearing proper corrective eyewear.'' Mr. Powell reported that he has driven tractor-trailer combinations for 25 years, accumulating 1.2 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.

Jerry M. Puckett

Mr. Puckett, 58, has had a macular hole in his left eye sustained due to a traumatic incident that occurred in 2009. The best corrected visual acuity in his right eye is 20/20, and in his left eye, light perception only. Following an examination in 2012, his ophthalmologist noted, ''The patient does have the ability to recognize color of traffic lights in the right eye, but not in the left eye and in our medical opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Puckett reported that he has driven straight trucks for 4 years, accumulating 208,000 miles, and tractor-trailer combinations for 33 years, accumulating 1.7 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Emin Toric

Mr. Toric, 34, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''Mr. Toric has normal vision in his left eye which, in my opinion, is sufficient for operating a commercial vehicle.'' Mr. Toric reported that he has driven tractor-trailer combinations for 7 years, accumulating 1.4 million miles. He holds a Class A CDL from Georgia. 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 November 23, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: October 16, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–26055 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0215]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 19 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). 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. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective October 23, 2012. The exemptions expire on October 23, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)-366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf*.

Background

On August 29, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 52381). That notice listed 19 applicants' case histories. The 19 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 19 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 19 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including retinal detachment, astigmatism, scleral buckle, amblyopia, macular ischemia, strabismus, loss of vision, and prosthesis. In most cases, their eye conditions were not recently developed. Eleven of the applicants were either born with their vision impairments or have had them since childhood.

The eight individuals that sustained their vision conditions as adults have had it for a period of 5 to 42 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to

knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 19 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 38 years. In the past 3 years, two of the drivers were involved in crashes, and three of the drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 29, 2012 notice (77 FR 52381).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 19 applicants, two of the drivers were involved in crashes, and three were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 19 applicants listed in the notice of August 29, 2012 (77 FR 52381).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 19 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy

of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

Brian Dardar commented in favor of granting the Federal vision exemption to all of the drivers listed in this notice because they have already demonstrated their ability to operate a CMV safely on state highways and a doctor's opinion has supported the applicants.

Conclusion

Based upon its evaluation of the 19 exemption applications, FMCSA exempts James W. Bittle (OK), Kenneth C. Caldwell (NY), Paul Claas (WI), Roger A. Duester (TX), Edward A. Egy (OH), Jonathan D. Evans (KY), Kelvin Frandin (KY), Charlene E. Geary (SD), Robert S. Gibson, Jr. (PA), Andrew F. Hill (TX), David N. Hinchcliffe (TX), Michael C. Hoff (WA), Joel M. Hunter (OH), Morris W. Lammert, Jr., (WI) Ray E. Meyers II, (MD), William J. Powell, Jr. (NC), Benny L. Sanchez (CA), Sandeep Singh (CA) and James T. Stalker (OH) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 16, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–26053 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Actions on Special Permit Applications

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

ACTION: Notice of actions on Special Permit Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given of the actions on special permits applications in (September to September 2012).

The mode of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on October 15, 2012.

Donald Burger,

Chief, Special Permits and Approvals Branch.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
MODIFICATION SPECIAL PERMIT GRANTED			
6691–M	Matheson Tri-Gas, Inc. Basking Ridge, NJ.	49 CFR 180.209(b)(i)	To modify the special permit to remove Linde's reference within paragraph 7.b. and add additional operational controls.
15267–M	SMI Companies Franklin, LA	49 CFR 171.8	To modify the special permit to change the design by removing the 2″ nozzles on the top flange.
11629–M	U.S. Department of Defense Scott AFB, IL.	49 CFR 106; 107; 171–180	To modify the special permit to authorize the transportation in commerce of additional Division 1.2 and 1.3 hazardous materials.
13102–M	Robertshaw Industrial Products dba Invensys Controls Maryville, TN.	49 CFR 173.150(b); 173.222(c); 173.306(a); 173.322.	To modify the special permit to authorize the transportation in commerce of additional Division 2.1 and 3 hazardous materials.
NEW SPECIAL PERMIT GRANTED			
15552–N	POLY-COAT SYSTEMS, INC. Liverpool, TX.	49 CFR 173.240, 173.241, 173.242, 173.243 and 172.244.	To authorize the manufacture, marking, sale and use of fiberglass reinforced plastic (GFRP) as the basic material of construction for DOT–412/407 type cargo tanks. (mode 1)
15580–N	Wisconsin Central Ltd. Homewood, MN.	49 CFR 174.85	To authorize the positioning of placarded cars without a buffer car. (mode 2)
15660–N	Air Products and Chemicals, Inc. Tamaqua, PA.	49 CFR 180.205 and 173.302a.	To authorize a 10-year requalification for DOT–3AL carrying Division 2.1 and 2.2 materials. (modes 1, 2, 3, 4, 5)
15656–N	Korean Air Lines Co. Ltd. (KAL) Arington, VA.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27, and 173.30(a)(1).	To authorize the one-time transportation in commerce of certain explosives that are forbidden for transportation by cargo only aircraft. (mode 4)
EMERGENCY SPECIAL PERMIT GRANTED			
14483–M	WEW Westerwaekder Eusebwerk Weitefeld Germany.	49 CFR 178.276(b)(1)	To modify the special permit to indicate a fillign level is attached to the manhole lid. (modes 1, 2, 3)

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
15710–N	USA Jet Airlines, Inc. Belleville, MI, MI.	49 CFR 175.85	To authorize the transportation in commerce of a Duracell 600HD Portable Power Source, containing a non-spillable battery, by passenger aircraft. (mode 5)
MODIFICATION SPECIAL PERMIT WITHDRAWN			
15448–M	U.S. Department of Defense Scott AFB, IL.	49 CFR 172.320, 173.51, 173.56, 173.57 and 173.58.	To modify the special permit to authorize interim hazard classification of Class 4 and 5 materials, and to allow that Ammunication and Explosives (AE) containing Class 1 may be clasified as other than Class 1 dependent on the characteristics of the AE.
1428–M	IDQ operating Inc. Tarrytown, NY.	49 CFR 173.304(d)	To modify the special permit to authorize the wording in paragraph 8.a to be changed from package to packaging would allow the containers to be shipped back to the manufacturer for recycling as a Consumer Commodity ORM–D.
NEW SPECIAL PERMIT WITHDRAWN			
15669–N	U.S. Department of Defense Scott Air Force Base, IL.	49 CFR 172.101, Column 1; 176.65; 176.84(c)(2); and 176.136.	To authorize alternate stowage of Class 1 ammunition on United States Navy Container Ships. (mode 3)
DENIED			
15504–N	Request by FIBA Technologies, Inc Millbury, MA September 07, 2012 To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for the transportation in commerce of certain compressed gases.		

[FR Doc. 2012–25858 Filed 10–22–12; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Application for Special Permits

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

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 23, 2012.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 15, 2012.

Donald Burger,

Chief, General Approvals and Permits.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
15712–N	.....	Air Transport International, Little Rock, AR.	49 CFR 172.101 Column (9B); 172.204(c)(3); 173.27(b)(2)(3); 175.30(a)(1).	To authorize the air transportation in commerce of certain explosives which are forbidden for shipment by cargo-only aircraft. (mode 4)
15713–N	.....	Bulk Tank International, Guanajuato, Mexico.	49 CFR 178.345–2; 178.346–2; 178.347–2; 178.348–2.	To authorize the manufacture, marking, sale and use of DOT 400 series cargo tanks using alternative materials of construction, specifically duplex stainless steels. (mode 1)
15716–N	.....	Department of Energy, Washington, DC.	49 CFR 49 CFR § 173.310	To authorize the transportation in commerce of boron trifluoride in radiation detectors. (mode 1)
15718–N	.....	Siex, Burgos, Apain	49 CFR 173.302a and 173.304a.	To authorize the transportation in commerce of Division 2.2 gases in non-DOT specification cylinders. (modes 1, 3)
15719–N	.....	Ameripak, Pontiac, MI	49 CFR 173.185	To authorize the manufacture, mark, sale and use of UN50D plywood box for the transportation in commerce of lithium batteries. (mode 1)

NEW SPECIAL PERMITS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
15720–N		Digital Wave Corporation, Centennial, CO.	49 CFR 180.205(g)	To extend the service life of certain permitted cylinders by certifying them by an alternative retest.
15721–N		Hunter Well Science, Arlington, TX.	49 CFR 173.301(1); 173.304a; 173.304a(a); 173.304a(a)(2).	To authorize the transportation in commerce of a Division 2.2 gas in a non-DOT specification cylinder. (modes 1, 3, 4, 5)
15722–N		Raytheon Missile Systems; Tucson, AZ.	49 CFR 172.101 Column (9B); 172.204(c)(3); 173.27(B)(2)(3); 175.30(a)(1).	To authorize the air transportation in commerce of certain explosives which are forbidden for shipment by cargo-only aircraft. (mode 4)
15723–N		Entegris, Chaska, MN	49 CFR 173.212; 173.213; 173.240; 173.241; 176.83.	To authorize the transportation in commerce of Division 4.1 and 4. material in non-specification packaging. (modes 1, 2, 3, 4)
15725–N		Toray Composites (America), Tacoma, WA.	49 CFR 173.225	To authorize the one-time one-way transportation of organic peroxides in packaging not authorized by the competent authority approval. (mode 1)
15726–N		Giant Resource, Recovery—Attalla, Inc., Attalla, AL.	49 CFR 173.306(k)(2); 173.156(b).	To authorize the transportation in commerce of waste aerosol cans in intermediate bulk containers without covering or clipping the valve stems. (mode 1)
15727–N		Blackhawk Helicopters, El Cajon, CA.	49 CFR § 172.101 Column (9B), § 172.204(c)(3), § 173.27(b)(2), § 175.30(a)(1), §§ 172.200, 172.300, 172.400, 173.302(f)(3) and § 175.75.	To authorize the transportation in commerce of certain hazardous materials by Part 133 Rotorcraft External Load Operations, attached to or suspended from an aircraft, in remote areas of the US without meeting certain hazard communication and stowage requirements. (mode 4)
15728–N		Brennder Tank LLC, Fond du Lac, WI.	49 CFR 107.503(b) and (c); 172.102(c)(3); 173.203(a); 173.241; 173.242; 173.243; 178.345–1, –2, –3, –4, –7, –14, –15; 178.347–1, –2; 178.348–1, –2.	To authorize the manufacture, mark, sale, and use of non-DOT specification FRP cargo tanks conforming to specification DOT 407, DOT 412, or combination thereof. (mode 1)

[FR Doc. 2012–25857 Filed 10–22–12; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Applications for Modification of Special Permit

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

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before November 7, 2012.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 15, 2012.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) Affected	Nature of special permit thereof
Modification of Special Permits				
13232–M		CP Industries, McKeesport, PA.	49 CFR 178.37(k)(2)(i); 178.37(1); 178.45(j)(1); 178.45(k)(2).	To modify the special permit to remove the requirement for maintaining a copy of the special permit where each package is offered or reoffered for transportation.
14188–M		IDQ Operating Inc., Tarrytown, NY.	49 CFR 173.304(d), 173.306(a)(3) and 178.33a.	To modify the special permit to reflect current statutes and regulations pertaining to consumer commodities.
15599–M		Vodik Labs, LLC (formerly Ovonic Hydrogen Systems), Fort Worth, TX.	49 CFR 173.311	To modify the special permit originally issued on an emergency basis to authorize an additional two years.
15655–M		Walt Disney Parks and Resorts U.S. Inc., Anaheim, CA.	49 CFR 173.56(b) and 172.320.	To modify the special permit to authorize an additional packaging configuration.

[FR Doc. 2012–25856 Filed 10–22–12; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Delays in Processing of Special Permits Applications

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

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of special permit applications

Meaning of Application Number Suffixes

N—New application
M—Modification request
R—Renewal Request
P—Party to Exemption Request

Issued in Washington, DC, on October 16, 2012.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Applicant	Reason for delay	Estimated date of completion
Modification to Special Permits			
14372–M	Kidde Aerospace and Defense, Wilson, NC	3	10–31–2012
New Special Permit Applications			
15334–N	Floating Pipeline Company Incorporated, Halifax, Nova Scotia	3	10–31–2012
15558–N	3M Company, St. Paul, MN	4	10–31–2012
15569–N	Vexxel Composites, LLC, Brigham City, UT	4	10–31–2012
Party to Special Permits Application			
14372–P France	L'Hotellier	3	10–31–2012

[FR Doc. 2012–25859 Filed 10–22–12; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 307X)]

Union Pacific Railroad Company—Abandonment Exemption—in Adams, Weld and Boulder Counties, Colo.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon a 23.90-mile freight rail operating easement for the remaining portion of the Boulder Industrial Lead, extending from milepost 9.27 near Eastlake to the end of the line at milepost 33.17 near Valmont, in Adams, Weld and Boulder Counties, Colo. The line traverses United States Postal Service Zip Codes 80241, 80602, 80603, 80516, 80514, 80026 and 80301.

UP originally filed its notice of exemption on June 27, 2012. In a decision served on July 26, 2012, at UP's request, the Board held in abeyance the publication of the notice in the **Federal Register** and the effectiveness of the abandonment exemption, pending further Board action on a subsequent petition filed by UP seeking exemptions from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions) for the proposed abandonment.

In a decision served on October 18, 2012, in this docket, the Board granted UP's petition and exempted the proposed abandonment from the provisions of 10904 and 10905.[1] That decision also provided for **Federal Register** publication of this notice on October 23, 2012, the date from which any remaining deadlines will be calculated.

According to UP, the entire Boulder Industrial Lead, including the 23.90-mile right-of-way over which UP is seeking to abandon its freight operating easement, along with the Lead's trackage, structures, and bridges, was sold to the Denver Regional Transportation District (RTD) in June 2009.[2] UP states that the line has been incorporated into the master plan for RTD's integrated mass transit system known as FasTracks (a regional public passenger rail and bus network for the greater Denver, Colo. area). UP also states that it had retained a common carrier freight operating easement over the entire Lead, and that RTD assumed no common carrier obligation with regard to the line through its purchase of the line. UP points out that, on or prior to consummation of the proposed abandonment, UP will assign to RTD its interest as lessor under a lease with the BNSF Railway Company that was last amended in 1999 that also includes a portion of the Lead extending from milepost 32.0 to milepost 33.0 and a related industrial spur. RTD will remain the owner of the entire Lead after consummation of the proposed abandonment by UP.

UP has certified that: (1) No local traffic has moved over the line for at least two years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

This exemption will be effective on November 22, 2012, unless stayed pending reconsideration. Petitions to stay must be filed by November 2, 2012, and petitions to reopen must be filed by November 13, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on July 20, 2012, requesting comments by August 6, 2012. In the EA, OEA recommended that the Board not impose environmental conditions on any decision granting abandonment authority. No comments to the EA were filed by the August 6, 2012 due date. Therefore, no conditions will be imposed. Because no environmental or historic preservation issues have been raised by any party or identified by OEA, a Finding of No Significant Impact under 49 CFR 1105.10(g) is made pursuant to 49 CFR 1011.7(a)(2)(ix).

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by October 23, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: October 18, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–26069 Filed 10–22–12; 8:45 am]

BILLING CODE 4915–01–P

[1] In the October 18, 2012 decision, the Board stated that there would not be an opportunity for interested persons to file trail use/rail banking requests. Under Section 8(d) of the National Trail Systems Act, 16 U.S.C. 1247(d), trail use/rail banking is voluntary and can only be implemented if an abandoning railroad agrees to negotiate an agreement. UP stated that it was not willing to negotiate for trail use/rail banking because the right-of-way that makes up the subject portion of the Boulder Lead had already been sold and incorporated into the RTD mass transit system. Therefore, no such requests will be entertained by the Board in this proceeding.

[2] UP notes that, in a decision served on October 19, 2001, UP was authorized to discontinue service over a portion of the Boulder Industrial Lead extending from milepost 18.79 to milepost 31.0 that allowed the Colorado Department of Transportation (CDOT) to widen Interstate Highway 25 by removing, rather than rebuilding or enlarging, the existing railroad bridge that ran over Interstate Highway 25. UP states that it had an agreement with CDOT providing that, if service were to resume over this segment, UP had the right to rebuild a new bridge over Interstate Highway 25 and would pay for it.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of 3 individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 3

individuals 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 designations by the Director of OFAC of the 3 individuals in this notice, pursuant to Executive Order 13224, are effective on October 17, 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 October 17, 2012 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, 3 individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. ACHEKZAI, Maulawi Adam Khan (a.k.a. KHAN, Maulawi Adam; a.k.a. ''ADAM, Maulawi''; a.k.a. ''ADAM, Molawi''), Chaman, Balochistan Province, Pakistan; DOB 1972; alt. DOB 1970; alt. DOB 1971; alt. DOB 1973; alt. DOB 1974; alt. DOB 1975; POB Qandahar, Afghanistan; citizen Pakistan (individual) [SDGT].
2. CHAUDHRY, Aamir Ali (a.k.a. CHAUDARY, Aamir Ali; a.k.a. CHAUDRY, Amir Ali; a.k.a. CHOUDRY, Aamir Ali; a.k.a. ''HUZAIFA''); DOB 03 Aug 1986; nationality Pakistan; Passport BN4196361 (Pakistan) issued 28 Oct 2008 expires 27 Oct 2013; National ID No. 33202–7126636–9 (Pakistan) (individual) [SDGT].
3. BASHIR, Qari Ayyub (a.k.a. AYUB, Qari Muhammad; a.k.a. BASHAR, Alhaj Qari Ayub; a.k.a. BASHIR, Ayob), Mir Ali, North Waziristan Agency, Federally Administered Tribal Areas, Pakistan; DOB 1966; alt. DOB 1964; alt. DOB 1969; alt. DOB 1971; nationality Uzbekistan; alt. nationality Afghanistan (individual) [SDGT].

Dated: October 17, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–26071 Filed 10–22–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120S, Schedule D, Schedule K–1, and Schedule M–3

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 1120S, U.S. Income Tax Return for an S Corporation, Schedule D (Form 1120S), Capital Gains and Losses and Built-In Gains, Schedule M–3 (Form 1120S), Net Income (Loss) Reconciliation for S Corporations With Total Assets of $10 Million or More, and Schedule K–1 (Form 1120S), Shareholder's Share of Income, Credits, Deductions, etc.

DATES: Written comments should be received on or before December 24, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Form 1120S, U.S. Income Tax Return for an S Corporation, Schedule D (Form 1120S), Capital Gains and Losses and Built-in Gains, Schedule K–1 (Form 1120S), Shareholder's Share of Income, Credits, Deductions, etc., Schedule M–3 (Form 1120S), Net Income (Loss) Reconciliation for S Corporations With Total Assets of $10 Million or More.

OMB Number: 1545–0130.

Form Number: Form 1120S, Schedule D, Schedule K–1, and Schedule M–3.

Abstract: Form 1120S, Schedule D (Form 1120S), Schedule K–1 (Form 1120S), and Schedule M–3 (Form 1120S) are used by an S corporation to figure its tax liability, and income and other tax-related information to pass through to its shareholders. Schedule D is used to report gain or loss from sales or exchanges of capital assets and the computation of tax on certain capital gains imposed by Internal Revenue Code section 1374. Schedule K–1 is used to report to shareholders their share of the corporation's income, deductions, credits, etc. Schedule M–3 is used for S corporations with assets of $10 million or more, to reconcile financial accounting net income and taxable income in a standardized and detailed format.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and farms.

Estimated Number of Respondents: 15,077,000.

Estimated Time per Respondent: 27 hours, 55 minutes.

Estimated Total Annual Burden Hours: 420,945,980.

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: October 16, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–26000 Filed 10–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6478

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 6478, Alcohol and Cellulosic Biofuel Fuels Credit.

DATES: Written comments should be received on or before December 24, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Alcohol and Cellulosic Biofuel Fuels Credit.

OMB Number: 1545–0231.

Form Number: Form 6478.

Abstract: Use Form 6478 to figure your alcohol and cellulosic biofuel fuels credit. You claim the credit for the tax year in which the sale or use occurs. The credit is determined under IRC section 40 and consists of the alcohol mixture credit, alcohol credit, small ethanol producer credit and cellulosic biofuel producer credit.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,300.

Estimated Time per Respondent: 7 hours, 13 minutes.

Estimated Total Annual Burden Hours: 23,793.

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: October 17, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–25998 Filed 10–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2009–72

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 Notice 2009–72, Qualifying Advanced Energy Project Credit.

DATES: Written comments should be received on or before December 24, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualifying Advanced Energy Project Credit.

OMB Number: 1545–2151.

Notice Number: Notice 2009–72.

Abstract: This notice establishes the qualifying advanced energy project program (''advanced energy program'') under § 48C(d) of the Internal Revenue Code and announces an initial allocation round of the qualifying advanced energy project credit (''advanced energy credit'') to qualifying advanced energy projects under the advanced energy program. A qualifying advanced energy project re-equips, expands, or establishes a manufacturing facility for the production of certain energy related property. A taxpayer must submit, for each qualifying advanced energy project: (1) An application for recommendation by the DOE (''application for DOE recommendation''), and (2) an application for certification under § 48C(d)(2) by the Service (''application for § 48C certification''). Both applications may be submitted only during the 2-year period beginning on August 14, 2009. Certifications will be issued and credits will be allocated to projects in annual allocation rounds. The initial allocation round will be conducted in 2009–10, and if necessary, additional allocation round in 2010–11.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This notice is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1000.

Estimated Average Time per Respondent: 110 hrs.

Estimated Total Annual Burden Hours: 110,000 hrs.

The following paragraph applies to all 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: October 17, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–25997 Filed 10–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5558

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 5558, Application for Extension of Time To File Certain Employee Plan Returns.

DATES: Written comments should be received on or before December 24, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Certain Employee Plan Returns.

OMB Number: 1545–0212.

Form Number: 5558.

Abstract: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or the employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 335,000.

Estimated Time per Response: 24 minutes.

Estimated Total Annual Burden Hours: 131,555.

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: October 17, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–25999 Filed 10–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under the Public Law 92–463 (Federal Advisory Committee Veterans Affairs (VA Act) that the Advisory Committee on Minority Veterans will meet on November 14–15, 2012, at the Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC. On November 14–15, the sessions will be in Room 430 from 8 a.m. until 5:30 p.m. and on November 16 in room 730 from 8 a.m. until 1 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans; to assess the needs of minority Veterans; and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee makes recommendations to the Secretary regarding such activities.

On November 14, the Committee will receive briefings and updates from the Veterans Benefits Administration (VBA), Center for Minority Veterans, Office of Public and Intergovernmental Affairs, Veterans Health Administration (VHA), and a panel discussion with ex-officio members. On November 15, the Committee will receive briefings and updates on the National Cemetery Administration (NCA), Office of Diversity and Inclusion, Office of Health Equity, and a special panel discussion with Center for Women Veterans, Center for Faith-Based and Neighborhood Partnership, Office of Survivors Assistance, VA for Vets, and Office of Small and Disadvantaged Business Utilization. On November 16, the Committee will hold an exit briefing with VBA, VHA and NCA. The Committee will receive public comments from 10:30 a.m. to 10:45 a.m. After public comment, the Committee will continue to work on their report.

A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. Dwayne Campbell, Department of Veterans Affairs, Center for Minority Veterans (00M), 810 Vermont Avenue NW., Washington, DC 20420, or email at *Dwayne.Campbell3@va.gov*. Any member of the public wishing to attend or seeking additional information should contact Mr. Campbell or Mr. Ronald Sagudan at (202) 461–6191 or by fax at (202) 273–7092.

Dated: October 18, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–26072 Filed 10–22–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Announcement Date Postponed for the Grand Prize Winner Announcement for the America COMPETES Reauthorization Act of 2011: Project REACH Homelessness Mobile App Contest

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: On March 22, 2012, the Department of Veterans Affairs (VA) published a notice in the **FEDERAL REGISTER** (77 FR 16895) to announce the launch of VA's Project REACH Homelessness Mobile App Contest, authorized under section 105 of the America COMPETES Reauthorization Act of 2011. Project REACH leadership has decided to postpone announcement of the Grand Prize Winner until no later than 11 p.m. on December 31, 2012. Postponing the announcement will provide participants with a greater opportunity to receive recognition for their dedication and efforts to end Veteran homelessness. This notice serves as an update to the original notice affecting only the announcement date for the Grand Prize Winner. All rules and requirements outlined in the March 22, 2012, **Federal Register** notice will remain in effect.

DATES: The Grand Prize Winner will be announced after November 9, 2012, but no later than 11 p.m., December 31, 2012. Competition began 12 p.m., March 22, 2012, and entries were accepted until 11 p.m., Eastern Standard Time, July 27, 2012.

Approved: October 12, 2012.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2012–26070 Filed 10–22–12; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 77 Tuesday,

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Part II

Defense Department

Manual for Courts-Martial; Proposed Amendments; Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2012–OS–0129]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DoD.

ACTION: Notice of Proposed Amendments to the Manual for Courts-Martial, United States (2012 ed.) and Notice of Public Meeting.

SUMMARY: The Department of Defense is proposing changes to the *Manual for Courts-Martial, United States* (2012 ed.) (MCM). The proposed changes concern the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters and Testimony,'' June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

This notice also sets forth the date, time and location for a public meeting of the JSC to discuss the proposed changes.

This notice is provided in accordance with DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 3, 2003.

This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

The committee also invites members of the public to suggest changes to the Manual for Courts-Martial; address specific recommended changes, and supporting rationale.

DATES: Comments on the proposed changes must be received no later than 60 days from publication in the register. A public meeting for comments will be held on December 11, 2012, at 10 a.m. in the 14th Floor Conference Room, 1777 N. Kent St., Rosslyn, VA 22209–2194.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: LTC Christopher Kennebeck, Chief, Policy Branch, Criminal Law Division, OTJAG, Room 3B548, Washington, DC 20301, 571.256.8136, email *usarmy.pentagon.hqda-otjag.mbx.jsc-public-comments@mail.mil.*

SUPPLEMENTARY INFORMATION: The proposed amendments to the MCM are as follows:

Annex

Section 1. Part I of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 4 is amended to read as follows:

''The Manual for Courts-Martial shall consist of this Preamble, the Rules for Courts-Martial, the Military Rules of Evidence, the Punitive Articles, and Nonjudicial Punishment Procedures (Part I–V). This Manual shall be applied consistent with the purpose of military law.

The Manual shall be identified by the year in which it was printed; for example, ''Manual for Courts-Martial, United States (20xx edition).'' Any amendments to the Manual made by Executive Order shall be identified as ''20xx'' Amendments to the Manual for Courts-Martial, United States, ''20xx'' being the year the Executive Order was signed.

The Department of Defense Joint Service Committee (JSC) on Military Justice reviews the Manual for Courts-Martial and proposes amendments to the Department of Defense for consideration by the President on an annual basis. In conducting its annual review, the JSC is guided by DoD Directive 5500.17, ''The Roles and Responsibilities of the Joint Service Committee (JSC) on Military Justice.'' DoD Directive 5500.17 includes provisions allowing public participation in the annual review process.''

Sec. 2. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 201(c) is amended to read as follows:

''(c) *Contempt.* A judge detailed to a court-martial may punish for contempt any person who uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial; disturbs the proceedings of the court-martial by any riot or disorder; or willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial. The punishment may not exceed confinement for 30 days or a fine of $1,000, or both.''

(b) R.C.M. 307(c)(3) is amended to read as follows:

''(3) *Specification.* A specification is a plain, concise, and definite statement of the essential facts constituting the offense charged. A specification is sufficient if it alleges every element of the charged offense expressly or by necessary implication; however, specifications under Article 134 must expressly allege the terminal element. Except for aggravating factors under R.C.M 1003(d) and R.C.M. 1004, facts that increase the maximum authorized punishment must be alleged in order to permit the possible increased punishment. No particular format is required.''

(c) R.C.M. 307(c)(4) is amended to read as follows:

''(4) *Multiple offenses.* Charges and specifications alleging all known offenses by an accused may be preferred at the same time. Each specification shall state only one offense. What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person. Unreasonable multiplication of charges is addressed in R.C.M. 906(b)(12); multiplicity is addressed in R.C.M. 907(b)(3)(B); and punishment limitations are addressed in R.C.M. 1003(c)(1)(C).''

(d) R.C.M. 405(f)(10) is amended to read as follows:

''(10) Have evidence, including documents or physical evidence, produced as provided under subsection (g) of this rule;''

(e) R.C.M. 405(g)(1)(B) is amended to read as follows:

''(B) *Evidence.* Subject to Mil. R. Evid., Section V, evidence, including documents or physical evidence, which is relevant to the investigation and not cumulative, shall be produced if reasonably available. Such evidence includes evidence requested by the accused, if the request is timely and in compliance with this rule. As soon as practicable after receipt of a request by the accused for information which may be protected under Mil. R. Evid. 505 or 506, the investigating officer shall notify the person who is authorized to issue a protective order under subsection (g)(6) of this rule, and the convening authority, if different. Evidence is reasonably available if its significance outweighs the difficulty, expense, delay, and effect on military operations of obtaining the evidence.''

(f) R.C.M. 405(g)(2)(C) is amended to read as follows:

''(C) *Evidence generally.* The investigating officer shall make an initial determination whether evidence is reasonably available. If the investigating officer decides that it is not reasonably available, the investigating officer shall inform the parties.''

(g) R.C.M. 405(g)(2)(C)(i) is inserted to read as follows:

''(i) Evidence under the control of the Government. Upon the investigating officer's determination that evidence is reasonably available, the custodian of the evidence shall

be requested to provide the evidence. A determination by the custodian that the evidence is not reasonably available is not subject to appeal by the accused, but may be reviewed by the military judge under R.C.M. 906(b)(3).''

(h) R.C.M. 405(g)(2)(C)(ii) is inserted to read as follows:

''(ii) *Evidence not under the control of the Government.* Evidence not under the control of the Government may be obtained through noncompulsory means or by subpoena duces tecum issued pursuant to procedures set forth in R.C.M. 703(f)(4)(B). A determination by the investigating officer that the evidence is not reasonably available is not subject to appeal by the accused, but may be reviewed by the military judge under R.C.M. 906(b)(3).''

(i) R.C.M. 405(i) is amended as follows:

''(i) Military Rules of Evidence. The Military Rules of Evidence do not apply in pretrial investigations under this rule except as follows:

(1) Military Rules of Evidence 301, 302, 303, 305, and Section V shall apply in their entirety.

(2) Military Rule of Evidence 412 subsections (a) and (b) shall apply in any case defined as a sexual offense in Mil. R. Evid. 412(d).

(A) *Evidence generally inadmissible.* Evidence described in Mil. R. Evid. 412(a) offered under any theory other than one enumerated in Mil. R. Evid. 412(b) is inadmissible. The investigating officer must note the exclusion of such evidence and the basis upon which it was offered in the investigating officer's report. An investigating officer who is not a judge advocate must seek legal advice from an impartial source concerning the admissibility, handling, and reporting of any such evidence.

(B) *Procedure to determine admissibility.* With respect to any evidence offered under a theory described in Mil. R. Evid. 412(b), the investigating officer must make a determination as to admissibility, as follows:

(i) *Notice.* A party intending to offer evidence under Mil. R. Evid. 412(b) must serve written notice on counsel representing the United States and the investigating officer at least 5 days prior to the date of the pretrial investigation that specifically describes the evidence and states the Mil. R. Evid. 412(b) purpose for which it is to be offered, unless the investigating officer, for good cause shown, sets a different time.

(ii) *Victim notice.* The investigating officer must notify the victim or, when appropriate, the victim's guardian or representative, or ensure that the notification is accomplished by the counsel representing the United States.

(iii) *Hearing.* Before admitting evidence under this rule, the investigating officer must conduct a closed hearing. The hearing must not take place prior to the accused's R.C.M. 405(f) rights advisement, but may otherwise occur during the normal course of the investigation. At the hearing, the parties may call witnesses, including the victim, and offer relevant evidence. R.C.M. 405(g) continues to apply during this hearing. The victim must be afforded a reasonable opportunity to attend and be heard. If the victim is unavailable within the meaning of R.C.M. 405(g)(1), the alternatives to testimony enumerated in R.C.M. 405(g)(4)(B) are available, including a sworn statement created for the purpose of the hearing.

(iv) *Order.* If the investigating officer determines on the basis of the hearing described in subsection (2)(B)(iii) that the evidence the accused seeks to offer is relevant for a purpose under Mil. R. Evid. 412(b), and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the pretrial investigation. The investigating officer must specify the evidence that may be offered and the areas with respect to which the victim or witness may be questioned.''

(j) R.C.M. 405(j)(2)(C) is amended as follows:

''(2) *Contents.* The report of investigation shall include:

(C) Any other statements, documents, or matters considered by the investigating officer, or recitals of the substance or nature of such evidence, including any findings made or documents admitted pursuant to subsection (i)(2)(B)(iv)'' (k) R.C.M. 703(e)(2)(B) is amended to read as follows:

''(B) *Contents.* A subpoena shall state the command by which the proceeding is directed, and the title, if any, of the proceeding. A subpoena shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. A subpoena may also command the person to whom it is directed to produce books, papers, documents, data, or other objects or electronically stored information designated therein at the proceeding or at an earlier time for inspection by the parties.''

(l) R.C.M. 703(e)(2)(C) is amended to read as follows:

''(C) *Who may issue.* A subpoena may be issued by the summary court-martial, counsel representing the United States, or after referral, trial counsel, to secure witnesses or evidence for that court-martial. A subpoena may also be issued by the president of a court of inquiry or by an officer detailed to take a deposition to secure witnesses or evidence for those proceedings respectively.''

(m) R.C.M. 703(e)(2)(D) is amended to read as follows:

''(D) *Service.* A subpoena may be served by the person authorized by this rule to issue it, a United States Marshal, or any other person who is not less than 18 years of age. Service shall be made by delivering a copy of the subpoena to the person named and by providing to the person named travel orders and a means for reimbursement for fees and mileage as may be prescribed by the Secretary concerned, or in the case of hardship resulting in the subpoenaed witness's inability to comply with the subpoena absent initial government payment, by providing to the person named travel orders, fees and mileage sufficient to comply with the subpoena in rules prescribed by the Secretary concerned.''

(n) R.C.M. 703(e)(2)(G)(ii) is amended to read as follows:

''(ii) *Requirements.* A warrant of attachment may be issued only upon probable cause to believe that the witness was duly served with a subpoena, that the subpoena was issued in accordance with these rules, that a means of reimbursement of fees and mileage was provided to the witness or advanced to the witness in cases of hardship, that the witness is material, that the witness refused or willfully neglected to appear at the time and place specified on the subpoena, and that no valid excuse is reasonably apparent for the witness' failure to appear.''

(o) R.C.M. 703(f)(4)(B) is amended to read as follows:

''(B) *Evidence not under the control of the Government.* Evidence not under the control of the Government may be obtained by subpoena issued in accordance with subsection (e)(2) of this rule. A subpoena duces tecum to produce books, papers, documents, data, or other objects or electronically stored information for pretrial investigation pursuant to Article 32 may be issued, following the convening authority's order directing such pretrial investigation, by either the investigating officer appointed under R.C.M. 405(d)(1) or the counsel representing the United States. A person in receipt of a subpoena duces tecum for an Article 32 hearing need not personally appear in order to comply with the subpoena.''

(p) R.C.M. 906(b)(12) is amended to read as follows:

''(12) *Unreasonable multiplication of charges.* The military judge may provide a remedy, as provided below, if he or she finds there has been an unreasonable multiplication of charges as applied to findings or sentence.

(i) *As applied to findings.* Charges that arise from substantially the same transaction, while not legally multiplicious, may still be unreasonably multiplied as applied to findings. When the military judge finds, in his or her discretion, that the offenses have been unreasonably multiplied, the appropriate remedy shall be dismissal of the lesser offenses or merger of the offenses into one specification.

(ii) *As applied to sentence.* Where the military judge finds that the nature of the harm requires a remedy that focuses more appropriately on punishment than on findings, he or she may find that there is an unreasonable multiplication of charges as applied to sentence. If the military judge makes such a finding, the maximum punishment for those offenses determined to be unreasonably multiplied shall be the maximum authorized punishment of the offense carrying the greatest maximum punishment.''

(q) R.C.M. 907(b)(3) is amended to read as follows:

''(3) *Permissible grounds.* A specification may be dismissed upon timely motion by the accused if one of the following is applicable:

(A) *Defective.* When the specification is so defective that it substantially misled the accused, and the military judge finds that, in the interest of justice, trial should proceed on remaining charges and specifications without undue delay; or

(B) *Multiplicity.* When the specification is multiplicious with another specification, is

unnecessary to enable the prosecution to meet the exigencies of proof through trial, review, and appellate action, and should be dismissed in the interest of justice. A charge is multiplicious if the proof of such charge also proves every element of another charge.''

(r) R.C.M. 916(b)(1) is amended to read as follows:

''(1) *General rule.* Except as listed below in paragraphs (2) and (3), the prosecution shall have the burden of proving beyond a reasonable doubt that the defense did not exist.''

(s) R.C.M. 916(b)(3) is amended to read as follows:

''(3) *Mistake of fact as to age.* In the defense of mistake of fact as to age as described in Article 120b(d)(2) in a prosecution of a child sexual offense, the accused has the burden of proving mistake of fact as to age by a preponderance of the evidence.''

(t) R.C.M. 916(j)(2) is amended to read as follows:

''(2) *Child Sexual Offenses.* It is a defense to a prosecution for Article 120b(b), sexual assault of a child, and Article 120b(c), sexual abuse of a child, that, at the time of the offense, the accused reasonably believed that the child had attained the age of 16 years, if the child had in fact attained at least the age of 12 years. The accused must prove this defense by a preponderance of the evidence.''

(u) R.C.M. 920(e)(5)(D) is amended to read as follows:

''(D) The burden of proof to establish the guilt of the accused is upon the Government. [When the issue of lack of mental responsibility is raised, add: The burden of proving the defense of lack of mental responsibility by clear and convincing evidence is upon the accused. When the issue of mistake of fact under R.C.M. 916(j)(2) is raised, add: The accused has the burden of proving the defense of mistake of fact as to age by a preponderance of the evidence.]''

(v) R.C.M. 1003(c)(1)(C) is amended to read as follows:

''(C) *Multiple Offenses.* When the accused is found guilty of two or more offenses, the maximum authorized punishment may be imposed for each separate offense, unless the military judge finds that the offenses are either multiplicious or unreasonably multiplied.

(i) *Multiplicity.* A charge is multiplicious and must be dismissed if the proof of such charge also proves every element of another charged offense unless Congress intended to impose multiple punishments for the same act.

(ii) *Unreasonable Multiplication.* If the military judge finds that there is an unreasonable multiplication of charges as applied to sentence, the maximum punishment for those offenses shall be the maximum authorized punishment for the offense carrying the greatest maximum punishment. The military judge may either merge the offenses for sentencing, or dismiss one or more of the charges.''

(w) R.C.M. 1004(c)(7)(B) is amended to read as follows:

''(B) The murder was committed: while the accused was engaged in the commission or attempted commission of any robbery, rape, rape of a child, sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, aggravated arson, sodomy, burglary, kidnapping, mutiny, sedition, or piracy of an aircraft or vessel; or while the accused was engaged in the commission or attempted commission of any offense involving the wrongful distribution, manufacture, or introduction or possession, with intent to distribute, of a controlled substance; or, while the accused was engaged in flight or attempted flight after the commission or attempted commission of any such offense.''

(x) R.C.M. 1004(c)(8) is amended to read as follows:

''(8) That only in the case of a violation of Article 118(4), the accused was the actual perpetrator of the killing or was a principal whose participation in the burglary, sodomy, rape, rape of a child, sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, robbery, or aggravated arson was major and who manifested a reckless indifference for human life.''

(y) R.C.M. 1004(c)(9) is amended to read as follows:

''(9) That, only in the case of a sexual offense:

(A) Under Article 120b, the victim was under the age of 12; or

(B) Under Articles 120 or 120b, the accused maimed or attempted to kill the victim;''

(z) R.C.M. 1103(b)(3) is amended by inserting new subsection (N) after R.C.M. 1103(b)(3)(M) as follows:

(N) Documents pertaining to the receipt of the record of trial by the victim pursuant to subsection (g)(3) of this rule.

(aa) R.C.M. 1103(g) is amended by inserting new subsection (3) after R.C.M. 1103(g)(2) as follows:

''(3) *Cases involving sexual offenses.*

(A) *Scope; qualifying victim.* In a general or special court-martial involving an offense under Article 120, Article 120b, Article 120c, Article 125, and all attempts to commit such offenses in violation of Article 80, where the victim of such an offense testified during the proceedings, a copy of the record of trial shall be given free of charge to that victim regardless of whether any such specification resulted in an acquittal or conviction. If a victim is a minor, a copy of the record of trial shall instead be provided to the parent or legal guardian of the victim.

(B) *Notice.* In accordance with regulations of the Secretary concerned, and no later than authentication of the record, trial counsel shall cause each qualifying victim to be notified of the opportunity to receive a copy of the record of trial. Qualifying victims may decline receipt of such documents in writing and any written declination shall be attached to the original record of trial.

(C) *Documents to be provided.* For purposes of this subsection, the record of trial shall consist of documents described in subsection (b)(2) of this rule, except for proceedings described in subsection (e) of this rule, in which case the record of trial shall consist of items described in subsection (e). Matters attached to the record as described in subsection (b)(3) of this rule are not required to be provided.'' (bb) R.C.M. 1104 (b)(1) is amended by inserting new subsection (E) after the Discussion section to R.C.M. 1104(b)(1)(D)(iii)(d) as follows:

''(E) *Victims of Sexual Assault.* Qualifying victims, as defined in R.C.M. 1103(g)(3)(A), shall be served a copy of the record of trial in the same manner as the accused under subsection (b) of this rule. In accordance with regulations of the Secretary concerned:

(i) A copy of the record of trial shall be provided to each qualifying victim as soon as it is authenticated, or if the victim requests, at a time thereafter. The victim's receipt of the record of trial, including any delay in receiving it, shall be documented and attached to the original record of trial.

(ii) A copy of the convening authority's action as described in R.C.M. 1103(b)(2)(D)(iv) shall be provided to each qualifying victim as soon as each document is prepared. If the victim makes a request in writing, service of the record of trial may be delayed until the action is available.

(iii) Classified information pursuant to subsection (b)(1)(D) of this rule, sealed matters pursuant to R.C.M. 1103A, or other portions of the record the release of which would unlawfully violate the privacy interests of any party, to include those afforded by 5 U.S.C. § 552a, The Privacy Act of 1974, shall not be provided. Matters attached to the record as described in R.C.M. 1103(b)(3) are not required to be provided.''

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) In paragraphs 1 through 113, the lesser included offenses in subparagraph d are uniformly amended to delete the existing language and insert the following words:

''See paragraph 3 of this part and Appendix 12A.''

(b) Paragraph 3b, Article 79, Lesser Included Offenses, is amended to read as follows:

''b. *Explanation.*

(1) In general. A lesser offense is ''necessarily included'' in a charged offense when the elements of the lesser offense are a subset of the elements of the charged offense, thereby putting the accused on notice to defend against the lesser offense in addition to the offense specifically charged. A lesser offense may be ''necessarily included'' when:

(a) All of the elements of the lesser offense are included in the greater offense, and the common elements are identical (for example, larceny as a lesser included offense of robbery);

(b) All of the elements of the lesser offense are included in the greater offense, but one or more elements is a subset by being legally less serious (for example, housebreaking as a lesser included offense of burglary); or

(c) All of the elements of the lesser offense are ''included and necessary'' parts of the greater offense, but the mental element is a subset by being legally less serious (for example, wrongful appropriation as a lesser included offense of larceny).

(2) *Sua sponte duty.* A military judge must instruct panel members on lesser included offenses reasonably raised by the evidence.

(3) *Multiple lesser included offenses.* When the offense charged is a compound offense

comprising two or more included offenses, an accused may be found guilty of any or all of the offenses included in the offense charged. For example, robbery includes both larceny and assault. Therefore, in a proper case, a court-martial may find an accused not guilty of robbery, but guilty of wrongful appropriation and assault.

(4) *Findings of guilty to a lesser included offense.* A court-martial may find an accused not guilty of the offense charged, but guilty of a lesser included offense by the process of exception and substitution. The court-martial may except (that is, delete) the words in the specification that pertain to the offense charged and, if necessary, substitute language appropriate to the lesser included offense. For example, the accused is charged with murder in violation of Article 118, but found guilty of voluntary manslaughter in violation of Article 119. Such a finding may be worded as follows:

Of the Specification: Guilty, except the word ''murder'' substituting therefor the words ''willfully and unlawfully kill,'' of the excepted word, not guilty, of the substituted words, guilty.

Of the Charge: Not guilty, but guilty of a violation of Article 119.

If a court-martial finds an accused guilty of a lesser included offense, the finding as to the charge shall state a violation of the specific punitive article violated and not a violation of Article 79.

(5) *Specific lesser included offenses.* Specific lesser included offenses, if any, are listed for each offense in Appendix 12A, but the list is merely guidance to practitioners; is not all-inclusive; and is not binding on military courts.''

(c) Paragraph 45, Article 120—Rape and sexual assault generally, is amended by inserting new subparagraph b. immediately after subparagraph a. to read as follows:

''b. *Elements.*

(1) *Rape involving contact between penis and vulva or anus or mouth.*

(a) *By unlawful force*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so with unlawful force.

(b) *By force causing or likely to cause death or grievous bodily harm*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.

(d) *By first rendering that other person unconscious*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by first rendering that other person unconscious.

(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.

(2) *Rape involving penetration of the vulva, anus, or mouth by any part of the body or any object.*

(a) *By force*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth of another person by any part of the body or by any object;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) By force causing or likely to cause death or grievous bodily harm

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) By first rendering that other person unconscious

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) By administering a drug, intoxicant, or other similar substance

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(3) Sexual assault involving contact between penis and vulva or anus or mouth.

(a) By threatening or placing that other person in fear

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by threatening or placing that other person in fear.

(b) By causing bodily harm

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by causing bodily harm to that other person.

(c) By fraudulent representation

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose.

(d) By false pretense

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person.

(e) Of a person who is asleep, unconscious, or otherwise unaware the act is occurring

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth; and

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

(f) When the other person is incapable of consenting

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, between the penis and vulva or anus or mouth;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability; and

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person.

(4) Sexual assault involving penetration of the vulva, anus, or mouth by any part of the body or any object.

(a) By threatening or placing that other person in fear

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the accused did so by threatening or placing that other person in fear; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) By causing bodily harm

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) By fraudulent representation

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose when it served no professional purpose; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) By false pretense

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) Of a person who is asleep, unconscious, or otherwise unaware the act is occurring

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(f) When the other person is incapable of consenting

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva, anus, or mouth by any part of the body or by any object;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(5) Aggravated sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

(a) By force

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) By force causing or likely to cause death or grievous bodily harm

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) By first rendering that other person unconscious

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) By administering a drug, intoxicant, or other similar substance

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(6) Aggravated sexual contact involving the touching of any body part of any person.

(a) By force

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(b) By force causing or likely to cause death or grievous bodily harm

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(d) *By first rendering that other person unconscious*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(7) *Abusive sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By threatening or placing that other person in fear*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by threatening or placing that other person in fear; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *By causing bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *By fraudulent representation*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *By false pretense*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(f) *When the other person is incapable of consenting*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(8) *Abusive sexual contact involving the touching of any body part of any person.*

(a) *By threatening or placing that other person in fear*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by threatening or placing that other person in fear; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(b) *By causing bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *By fraudulent representation*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose when it served no professional purpose; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(d) *By false pretense*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iv) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(f) *When the other person is incapable of consenting*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to arouse or gratify the sexual desire of any person.''

(c) Paragraph 45, Article 120—Rape and sexual assault generally, is amended by inserting new subparagraph c. immediately after subparagraph b. to read as follows:

''c. *Explanation.*

(1) In general. Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.* The terms are defined in Paragraph 45a(g).

(3) *Victim character and privilege.* See Mil. R. Evid. 412 concerning rules of evidence relating to the character of the victim of an alleged sexual offense. See Mil. R. Evid. 514 concerning rules of evidence relating to privileged communications between the victim and victim advocate.

(4) *Consent as an element.* Lack of consent is not an element of any offense under this paragraph unless expressly stated. Consent may be relevant for other purposes.''

(d) Paragraph 45, Article 120—Rape and sexual assault generally, is amended by inserting new subparagraph d. immediately after subparagraph c. to read as follows:

''d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.''

(e) Paragraph 45, Article 120—Rape and sexual assault generally, is amended by

inserting new subparagraph e. immediately after subparagraph d. to read as follows:

''e. *Maximum punishments.*

(1) Rape. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(2) *Sexual assault.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

(3) *Aggravated sexual contact.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) *Abusive sexual contact.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.''

(f) Paragraph 45, Article 120—Rape and sexual assault generally, is amended by inserting new subparagraph f. immediately after subparagraph e. to read as follows:

''f. *Sample specifications.*

(1) *Rape involving contact between penis and vulva or anus or mouth.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____ by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by using unlawful force.

(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____ by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by using force likely to cause death or grievous bodily harm to _____, to wit: _____.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____ by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by (threatening _____) (placing _____ in fear) that _____ would be subjected to (death) (grievous bodily harm) (kidnapping).

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____ by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by first rendering _____ unconscious by _____.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____ by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by administering to _____ (by force) (by threat of force) (without the knowledge or permission of _____) a (drug) (intoxicant) (list other similar substance), to wit: _____, thereby substantially impairing the ability of _____ to appraise or control his/her conduct.

(2) *Rape involving penetration of genital opening by any part of the body or any object.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object) by using unlawful force, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) _____.

(b) *By force causing or likely to cause death or grievous bodily injury.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object) by using force likely to cause death or grievous bodily harm to _____, to wit: _____, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) _____.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object) by (threatening _____) (placing _____ in fear) that _____ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) _____.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object) by first rendering _____ unconscious, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) _____.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object) by administering to _____ (by force) (by threat of force) (without the knowledge or permission of _____) a (drug) (intoxicant) (list other similar substance), to wit: _____, thereby substantially impairing the ability of _____ to appraise or control his/her conduct, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) _____.

(3) *Sexual assault involving contact between penis and vulva.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, by (threatening _____) (placing _____ in fear).

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis by causing bodily harm to _____, to wit: _____.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis by making a fraudulent representation that the sexual act served a professional purpose, to wit: _____.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis when he/she knew or reasonably should have known that _____ was (asleep) (unconscious) (unaware the sexual act was occurring due to _____).

(f) *When the other person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by causing penetration of _____'s (vulva) (anus) (mouth) with _____'s penis, when _____ was incapable of consenting to the sexual act because he/she [was impaired by (a drug, to wit: _____) (an intoxicant, to wit: _____) ()] [had a (mental disease, to wit: _____) (mental defect, to wit: _____) (physical disability, to wit: _____)], a condition that was known or reasonably should have been known by the said accused.

(4) *Sexual assault involving penetration of vulva or anus or mouth by any part of the body or any object.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), by (threatening _____) (placing _____ in fear), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), by causing bodily harm to _____, to wit:_____ with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), by making a fraudulent representation that the sexual act served a professional purpose, to wit:

_____, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), when he/she knew or reasonably should have known that _____ was (asleep) (unconscious) (unaware the sexual act was occurring due to _____), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(f) *When the other person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, commit a sexual act upon _____, by penetrating the (vulva) (anus) (mouth) of _____ with (list body part or object), when _____ was incapable of consenting to the sexual act because he/she [was impaired by (a drug, to wit: _____) (an intoxicant, to wit: _____) ()] [had a (mental disease, to wit: _____) (mental defect, to wit: _____) (physical disability, to wit: _____)], a condition that was known or reasonably should have been known by the said accused, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) _____.

(5) *Aggravated sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____, by using unlawful force, with an intent to (abuse) (humiliate) (degrade) _____.

(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____, by using force likely to cause death or grievous bodily harm to _____, to wit: _____, with an intent to (abuse) (humiliate) (degrade) _____.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____, by (threatening _____) (placing _____ in fear) that _____ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (abuse) (humiliate) (degrade) _____.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____, by rendering _____ unconscious by _____, with an intent to (abuse) (humiliate) (degrade) _____.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____, by administering to _____ (by force) (by threat of force) (without the knowledge or permission of ____) a (drug) (intoxicant) (___) thereby substantially impairing the ability of _____ to appraise or control his/her conduct, with an intent to (abuse) (humiliate) (degrade) _____.

(6) *Aggravated sexual contact involving the touching of any body part of any person.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] (name of body part) of _____, by using unlawful force, with an intent to (arouse) (gratify the sexual desire of) _____.

(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] (name of body part) of _____, by using force likely to cause death or grievous bodily harm to _____, to wit: _____, with an intent to (arouse) (gratify the sexual desire of) _____.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] (name of body part) of _____, by (threatening _____) (placing _____ in fear) that _____ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (arouse) (gratify the sexual desire of) _____.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] (name of body part) of _____, by rendering _____ unconscious by _____, with an intent to (arouse) (gratify the sexual desire of) _____.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause _____ to touch)] [(directly) (through the clothing)] (name of body part) of _____, by administering to _____ (by force) (by threat of force) (without the knowledge or permission of _____) a (drug) (intoxicant) (____) and thereby substantially impairing the ability of _____ to appraise or control his/her conduct, with an intent to (arouse) (gratify the sexual desire of) _____.

(7) *Abusive sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ by (threatening _____) (placing _____ in fear), with an intent to (abuse) (humiliate) (degrade) _____.

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ by causing bodily harm to _____, to wit: _____, with an intent to (abuse) (humiliate) (degrade) _____.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ by making a fraudulent representation that the sexual contact served a professional purpose, to wit: _____, with an intent to (abuse) (humiliate) (degrade) _____.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (abuse) (humiliate) (degrade) _____.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ when he/she knew or reasonably should have known that _____ was (asleep) (unconscious) (unaware the sexual contact was occurring due to _____), with an intent to (abuse) (humiliate) (degrade) _____.

(f) *When that person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of _____ when _____ was incapable of consenting to the sexual contact because he/she [was impaired by (a drug, to wit: _____) (an intoxicant, to wit: _____) (1) [had a (mental disease, to wit: _____) (mental defect, to wit: _____)

(physical disability, to wit: _____)] and this condition was known or reasonably should have been known by _____, with an intent to (abuse) (humiliate) (degrade) _____.

(8) *Abusive sexual contact involving the touching of any body part of any person.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ by (threatening _____) (placing _____ in fear), with an intent to (arouse) (gratify the sexual desire of) _____.

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ by causing bodily harm to _____, to wit: _____, with an intent to (arouse) (gratify the sexual desire of) _____.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ by making a fraudulent representation that the sexual contact served a professional purpose, to wit: _____, with an intent to (arouse) (gratify the sexual desire of) _____.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (arouse) (gratify the sexual desire of) _____.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about ____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ when he/she knew or reasonably should have known that _____ was (asleep) (unconscious) (unaware the sexual contact was occurring due to _____), with an intent to (arouse) (gratify the sexual desire of) _____.

(f) *When that person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about _____ 20__, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of _____ when _____ was incapable of consenting to the sexual contact because he/she [was impaired by (a drug, to wit: _____) (an intoxicant, to wit: _____) (1) [had a (mental disease, to wit: _____) (mental defect, to wit: _____) (physical disability, to wit: _____)], a condition that was known or reasonably should have been known by _____, with an intent to (arouse) (gratify the sexual desire of) _____.''

(g) Paragraph 45b, Article 120—Rape and Sexual assault of a child, is amended by inserting new subparagraph b. immediately after subparagraph a. to read as follows:

''b. *Elements.*

(1) *Rape of a child involving contact between penis and vulva or anus or mouth.*

(a) *Rape of a child who has not attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, between the penis and the vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had not attained the age of 12 years.

(b) *Rape by force of a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, between the penis and the vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years, and

(iii) That the accused did so by using force against that child or any other person.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, between the penis and the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so by threatening the child or another person or placing that child in fear.

(d) *Rape by rendering unconscious a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, between the penis and the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so by rendering that child unconscious.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, between the penis and the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so by administering to that child a drug, intoxicant, or other similar substance.

(2) *Rape of a child involving penetration of vulva, anus or mouth by any part of the body or any object.*

(a) *Rape of a child who has not attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva, anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had not attained the age of 12 years; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *Rape by force of a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva, anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by using force against that child or any other person; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva, anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by threatening the child or another person or placing that child in fear; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *Rape by rendering unconscious a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva, anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by rendering that child unconscious; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva, anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by administering to that child a drug, intoxicant, or other similar substance; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(3) *Sexual assault of a child.*

(a) *Sexual assault of a child who has attained the age of 12 involving contact between penis and vulva or anus or mouth.*

(i) That the accused committed a sexual act upon a child causing contact between penis and vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years.

(b) *Sexual assault of a child who has attained the age of 12 involving penetration*

of vulva, anus or mouth by any part of the body or any object.

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(4) *Sexual abuse of a child.*

(a) *Sexual abuse of a child by sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(i) That the accused committed sexual contact upon a child by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person; and

(ii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *Sexual abuse of a child by sexual contact involving the touching of any body part.*

(i) That the accused committed sexual contact upon a child by touching, or causing another person to touch, either directly or through the clothing, any body part of any person; and

(ii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *Sexual abuse of a child by indecent exposure.*

(i) That the accused intentionally exposed his/her genitalia, anus, buttocks, or female areola or nipple to a child by any means; and

(ii) That the accused did so with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(d) *Sexual abuse of a child by indecent communication.*

(i) That the accused intentionally communicated indecent language to a child by any means; and

(ii) That the accused did so with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(e) *Sexual abuse of a child by indecent conduct.*

(i) That the accused engaged in indecent conduct, intentionally done with or in the presence of a child; and

(ii) That the indecent conduct amounted to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.''

(h) Paragraph 45b, Article 120b—Rape and sexual assault of a child, is amended by inserting new subparagraph c. immediately after subparagraph b. to read as follows:

''c. *Explanation.*

(1) *In general.* Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.* Terms not defined in this paragraph are defined in paragraph 45b.a(h), *supra.''*

(i) Paragraph 45b, Article 120b—Rape and sexual assault of a child, is amended by inserting new subparagraph d. immediately after subparagraph c. to read as follows:

''d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.''

(j) Paragraph 45b, Article 120b—Rape and sexual assault of a child, is amended by inserting new subparagraph e. immediately after subparagraph d. to read as follows:

''e. *Maximum punishment.*

(1) *Rape of a child.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(2) *Sexual assault of a child.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

(3) *Sexual abuse of a child.*

(a) *Cases involving sexual contact.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(b) *Other cases.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.''

(k) Paragraph 45b, Article 120b—Rape and sexual assault of a child, is amended by inserting new subparagraph f. immediately after subparagraph e. to read as follows:

''f. *Sample specifications.*

(1) *Rape of a child involving contact between penis and vulva or anus or mouth.*

(a) *Rape of a child who has not attained the age of 12.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had not attained the age of 12 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis.

(b) *Rape by force of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis, by using force against ___.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis by (threatening ___) (placing ___ in fear).

(d) *Rape by rendering unconscious of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis by rendering ___ unconscious by ___.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis by administering to ___ a (drug) (intoxicant) (___), to wit:___.

(2) *Rape of a child involving penetration of the vulva or anus or mouth by any part of the body or any object.*

(a) *Rape of a child who has not attained the age of 12.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had not attained the age of 12 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(b) *Rape by force of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), by using force against ___, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), by (threatening ___) (placing ___ in fear), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(d) *Rape by rendering unconscious of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), by rendering ___ unconscious, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), by administering to ___ a (drug) (intoxicant) (___), to wit: ___, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(3) *Sexual assault of a child.*

(a) *Sexual assault of a child who has attained the age of 12 years involving contact between penis and vulva or anus or mouth.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had

attained the age of 12 years but had not attained the age of 16 years, by causing penetration of ___'s (vulva) (anus) (mouth) with ___'s penis.

(b) *Sexual assault of a child who has attained the age of 12 years involving penetration of vulva or anus or mouth by any part of the body or any object.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20__, commit a sexual act upon ___, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of ___ with (list body part or object), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(4) *Sexual abuse of a child.*

(a) *Sexual abuse of a child involving sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, commit a lewd act upon ___, a child who had not attained the age of 16 years, by intentionally [(touch) (cause ___ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of ___, with an intent to (abuse) (humiliate) (degrade) ___.

(b) *Sexual abuse of a child involving sexual contact involving the touching of any body part of any person.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, commit a lewd act upon ___, a child who had not attained the age of 16 years, by intentionally exposing [his (genitalia) (anus) (buttocks)] [her (genitalia) (anus) (buttocks) (areola) (nipple)] to ___, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(c) *Sexual abuse of a child involving indecent exposure.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, commit a lewd act upon ___, a child who had not attained the age of 16 years, by intentionally [(touch) (cause ___ to touch)] [(directly) (through the clothing)] (name of body part) of ___, with an intent to (arouse) (gratify the sexual desire of) ___.

(d) *Sexual abuse of a child involving indecent communication.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, commit a lewd act upon ___, a child who had not attained the age of 16 years, by intentionally communicating to ___ indecent language to wit: ___, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) ___.

(e) *Sexual abuse of a child involving indecent conduct.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, commit a lewd act upon ___, a child who had not attained the age of 16 years, by engaging in indecent conduct, to wit: ___, intentionally done (with) (in the presence of) ___, which conduct amounted to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.''

(m) Paragraph 45c, Article 120—Other sexual misconduct, is amended by inserting new subparagraph b. immediately after subparagraph a. to read as follows:

''b. *Elements.*

(1) *Indecent viewing.*

(a) That the accused knowingly and wrongfully viewed the private area of another person;

(b) That said viewing was without the other person's consent; and

(c) That said viewing took place under circumstances in which the other person had a reasonable expectation of privacy.

(2) *Indecent visual recording.*

(a) That the accused knowingly recorded (photographed, videotaped, filmed, or recorded by any means) the private area of another person;

(b) That said visual recording was without the other person's consent; and

(c) That said visual recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(3) *Broadcasting of an indecent visual recording.*

(a) That the accused knowingly broadcast a certain visual recording of another person's private area;

(b) That said visual recording was made or broadcast without the other person's consent;

(c) That the accused knew or reasonably should have known that the visual recording was made or broadcast without the other person's consent;

(d) That said visual recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonably should have known that said visual recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(4) *Distribution of an indecent visual recording.*

(a) That the accused knowingly distributed a certain visual recording of another person's private area;

(b) That said visual recording was made or distributed without the other person's consent;

(c) That the accused knew or reasonably should have known that said visual recording was made or distributed without the other person's consent;

(d) That said visual recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonably should have known that said visual recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(5) *Forcible pandering.*

(a) That the accused compelled a certain person to engage in an act of prostitution with any person; and

(6) *Indecent exposure.*

(a) That the accused exposed his or her genitalia, anus, buttocks, or female areola or nipple;

(b) That the exposure was in an indecent manner; and

(c) That the exposure was intentional.''

(l) Paragraph 45c, Article 120—Other sexual misconduct, is amended by inserting new subparagraph c. immediately after subparagraph b. to read as follows:

''c. *Explanation.*

(1) *In general.* Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.*

(a) *Recording or visual recording.* A ''recording'' or ''visual recording'' is a still or moving visual image captured or recorded by any means.

(b) Other terms are defined in paragraph 45c.a(d), *supra.''*

(m) Paragraph 45c, Article 120—Other sexual misconduct, is amended by inserting new subparagraph b. immediately after subparagraph a. to read as follows:

''d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.''

(n) Paragraph 45c, Article 120—Other sexual misconduct, is amended by inserting new subparagraph e. immediately after subparagraph d. to read as follows:

''e. *Maximum punishment.*

(1) *Indecent viewing.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) *Indecent visual recording.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

(3) *Broadcasting or distribution of an indecent visual recording.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.

(4) *Forcible pandering.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 12 years.

(5) *Indecent exposure.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.''

(o) Paragraph 45c, Article 120—Other sexual misconduct, is amended by inserting new subparagraph f. immediately after subparagraph e. to read as follows:

''f. *Sample specifications.*

(1) *Indecent viewing, visual recording, or broadcasting.*

(a) *Indecent viewing.* In that (personal jurisdiction data), did (at/on board location), on or about ___20 __, knowingly and wrongfully view the private area of ___, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(b) *Indecent visual recording.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, knowingly (photograph) (film) (make a visual recording of) the private area of ___, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(c) *Broadcasting or distributing an indecent visual recording.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, knowingly (broadcast) (distribute) a visual recording of the private area of ___, when the said accused knew or reasonably should have known that the said visual recording was (made) (and/or) (distributed/broadcast) without the consent of ___ and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(2) *Forcible pandering.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, wrongfully compel ___ to engage in (a sexual act) (sexual contact) with ___, to wit: ___, for the purpose of receiving (money) (other compensation) (___).

(3) *Indecent exposure.* In that (personal jurisdiction data), did (at/on board location), on or about ___ 20 __, intentionally expose [his (genitalia) (anus) (buttocks)] [her (genitalia) (anus) (buttocks) (areola) (nipple)] in an indecent manner, to wit: ___.''

(p) Paragraphs 61 through 113, except for paragraphs 63, 87, 88, 90, and 101, the sample specifications in subparagraph f are uniformly amended to insert the words below between the last word and the period in each sample specification:

'', and that said conduct was (to the prejudice of good order and discipline in the armed forces) (and was) (of a nature to bring discredit upon the armed forces)''

(q) Paragraph 60, Article 134(b)—General Article, is amended to read as follows:

''b. *Elements.* The proof required for conviction of an offense under Article 134 depends upon the nature of the misconduct charged. If the conduct is punished as a crime or offense not capital, the proof must establish every element of the crime or offense as required by the applicable law. All offenses under Article 134 require proof of a single terminal element; however, the terminal element may be proven using any of three theories of liability corresponding to clause 1, 2, or 3 offenses.

(1) For clause 1 or 2 offenses under Article 134, the following proof is required:

(a) That the accused did or failed to do certain acts; and

(b) That, under the circumstances, the accused's conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) For clause 3 offenses under Article 134, the following proof is required:

(a) That the accused did or failed to do certain acts that satisfy each element of the federal or assimilated statute; and

(b) That the offense charged was an offense not capital.''

(r) Paragraph 60, Article 134(c)(6)(a)—General Article, is amended to read as follows:

''(a) *Specifications under clause 1 or 2.* When alleging a clause 1 or 2 violation, the specification must expressly allege that the conduct was ''to the prejudice of good order and discipline'' or that it was ''of a nature to bring discredit upon the armed forces.'' The same conduct may be prejudicial to good order and discipline in the armed forces and at the same time be of a nature to bring discredit upon the armed forces. Both clauses may be alleged; however, only one must be proven to satisfy the terminal element. If conduct by an accused does not fall under any of the enumerated Article 134 offenses (paragraphs 61 through 113 of this Part), a specification not listed in this Manual may be used to allege the offense.''

(s) Paragraph 60, Article 134(c)(6)(b)—General Article, is amended to read as follows:

''(b) *Specifications under clause 3.* When alleging a clause 3 violation, the specification must expressly allege that the conduct was ''an offense not capital,'' and each element of the federal or assimilated statute must be alleged expressly or by necessary implication. In addition, the federal or assimilated statute should be identified.''

(t) Paragraph 60, Article 134(c)(6)(b)—General Article, is deleted:

(u) Paragraph 61, Article 134—Abusing public animal, is amended to read as follows:

''61. Article 134—(Animal Abuse)

a. *Text of statute. See* paragraph 60.

b. *Elements.*

(1) *Abuse, neglect or abandonment of an animal.*

(a) That the accused wrongfully abused, neglected or abandoned a certain (public*) animal (and the accused caused the serious injury or death of the animal*); and

(b) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(***Note:** Add these elements as applicable.)

(2) *Sexual act with an animal.*

(a) That the accused engaged in a sexual act with a certain animal; and

(b) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *In general.* This offense prohibits knowing, reckless, or negligent abuse, neglect, or abandonment of an animal. This offense does not include legalized hunting, trapping, or fishing; reasonable and recognized acts of training, handling, or disciplining of an animal; normal and accepted farm or veterinary practices; research or testing conducted in accordance with approved military protocols; protection of person or property from an unconfined animal; or authorized military operations or military training.

(2) *Definitions.* As used in this paragraph:

(A) ''*Abuse*'' means intentionally and unjustifiably: overdriving, overloading, overworking, tormenting, beating, depriving of necessary sustenance, allowing to be housed in a manner that results in chronic or repeated serious physical harm, carrying or confining in or upon any vehicles in a cruel or reckless manner, or otherwise mistreating an animal. Abuse may include any sexual touching of an animal if done with the intent to gratify the sexual desire of the accused and if not included in the definition of sexual act below.

(B) ''*Neglect*'' means allowing another to abuse an animal, or, having the charge or custody of any animal, intentionally, knowingly, recklessly, or negligently failing to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved.

(C) ''*Abandoned*'' means the intentional, knowing, reckless or negligent leaving of an animal at a location without providing minimum care while having the charge or custody of that animal.

(D) ''*Animal*'' means pets and animals of the type that are raised by individuals for resale to others, including but not limited to: Cattle, horses, sheep, pigs, goats, chickens, dogs, cats and similar animals owned or under the control of any person. Animal does not include reptiles, insects, arthropods, or any animal defined or declared to be a pest by the administrator of the United States Environmental Protection Agency.

(E) ''*Public animal*'' means any animal owned or used by the United States or any animal owned or used by a local or State government in the United States, its territories or possessions. This would include, for example, drug detector dogs used by the government.

(F) ''*Sexual act*'' with an animal means contact between the sex organ, anus or mouth of a person and the sex organ, mouth, or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal.

(H) ''*Serious injury*'' of an animal means physical harm that involves a temporary but substantial disfigurement; causes a temporary but substantial loss or impairment of the function of any bodily part or organ; causes a fracture of any bodily part; causes permanent maiming; causes acute pain of a duration that results in suffering; or carries a substantial risk of death. Serious injury includes, but is not limited to, burning, torturing, poisoning, or maiming.

d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.*

(1) *Abuse, neglect or abandonment of an animal.* Bad conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) *Abuse, neglect or abandonment of a public animal.* Bad conduct discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(3) *Sexual act with an animal or cases where the accused caused the serious injury or death of the animal.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.*

In that _____, (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about (date), (wrongfully [abuse] [neglect] [abandon]) (*engage in a sexual act, to wit: _____, with) a certain (*public) animal (*and caused [serious injury to] [the death of] the animal), and that said conduct was (to the prejudice of good order and discipline in the armed forces) (or) (and was) (of a nature to bring discredit upon the armed forces).

(* **Note:** Add these elements as applicable.)''

(v) Paragraph 90, Article 134—Indecent Acts with another was deleted by Executive Order 13447, 72 Fed. Reg. 56179 (Oct. 2, 2007), Article 134 (Indecent Conduct) is inserted and reads as follows:

''90. Article 134—(Indecent Conduct)

a. *Text of Statute. See* paragraph 60.

b. *Elements.*

(1) That the accused engaged in a certain conduct;

(2) That the conduct was indecent; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) ''*Indecent*'' means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(2) Indecent conduct includes offenses previously prescribed by ''Indecent acts with another'' except that the presence of another person is no longer required. For purposes of this offense, the words ''conduct'' and ''act'' are synonymous. For child offenses, some indecent conduct may be included in the definition of lewd act and preempted by Article 120b(c). *See* paragraph 60c(5)(a).

d. *Lesser included offense.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about (date), (wrongfully commit indecent conduct, to wit: _____), and that said conduct was (to the prejudice of good order and discipline in the armed forces) (or) (and was) (of a nature to bring discredit upon the armed forces).''

Changes to Appendix 12, Maximum Punishment Chart

(a) Article 120 is deleted and is replaced with the following:

Offense	Discharge	Confinement	Forfeiture
Rape	DD,BCD	Life [4]	Total.
Sexual Assault	DD,BCD	30 yrs	Total.
Aggravated Sexual Contact	DD,BCD	20 yrs	Total.
Abusive Sexual Contact	DD,BCD	7 yrs	Total.

[4] With or without eligibility for parole.

(b) Article 120b is inserted and reads as follows:

Offense	Discharge	Confinement	Forfeiture
Rape of a Child	DD,BCD	Life [4]	Total.
Sexual Assault of a Child	DD,BCD	30 yrs	Total.
Sexual Abuse of a Child:			
Cases Involving Sexual Contact	DD,BCD	20 yrs	Total.
Other Cases	DD,BCD	15 yrs	Total.

[4] With or without eligibility for parole.

(c) Article 120c is inserted and reads as follows:

Offense	Discharge	Confinement	Forfeiture
Indecent Viewing	DD,BCD	1 yr	Total.
Indecent Visual Recording	DD,BCD	5 yrs	Total.
Broadcasting or Distributing of an Indecent Visual Recording	DD,BCD	7 yrs	Total.
Forcible Pandering	DD,BCD	12 yrs	Total.
Indecent Exposure	DD,BCD	1 yr	Total.

(c) Insert the following Note after Article 120c:

[**Note:** The Article 120, 120b, and 120c maximum punishments apply to offenses committed after 28 June 2012. *See* Appendices 23, 27, and 28]

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APPENDINX 12A
LESSER INCLUDED OFFENSES

This chart was compiled for convenience purposes only and is not the ultimate authority for specific lesser included offenses. Lesser offenses are those which are necessarily included in the offense charged. *See* Article 79. Depending on the factual circumstances in each case, the offenses listed below may be considered lesser included. The elements of the proposed lesser included offense should be compared with the elements of the greater offense to determine if the elements of the lesser offense are derivative of the greater offense and vice versa. The "elements test" is the proper method for determining lesser included offenses. *See* Appendix 23.

Attempts to commit an offense may constitute a lesser included offense and are not listed. *See* Article 80.

Article	*Offense*	*Lesser Included Offense*
77	Principals (*see* Part IV, Para. 1)	
78	Accessory after the fact (*see* Part IV, Para. 2)	
79	Lesser included Offenses (*see* Part IV, Para. 3)	
80	Attempts (*see* Part IV, Para. 4)	
81	Conspiracy (*see* Part IV, Para. 5)	
82	Solicitation	
83	Fraudulent enlistment, appointment, or separation	
84	Effecting unlawful enlistment, appointment, or separation	
85	Desertion	Art. 86
86	Absence without leave	
87	Missing movement	
	- *Design*……	Art. 87 (*neglect*); Art. 86
	- *Neglect*……	Art. 86
88	Contempt toward officials	
89	Disrespect toward a superior commissioned officer	Art. 117
90	Assaulting or willfully disobeying superior commissioned officer	
	- *Striking superior commissioned officer in execution of office*……	Art. 90 (*drawing or lifting up a weapon or offering violence to superior commissioned officer*); Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon; assault or assault consummated by battery upon commissioned officer not in the execution of office*)
	- *Drawing or lifting up a weapon or offering violence to superior Commissioned officer in execution of office*……	Art. 128 (*assault; assault with dangerous weapon; assault upon a commissioned officer not in the execution of office*)
	- *Willfully disobeying lawful order of superior commissioned officer*……	Art. 92; Art. 89
91	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer	
	- *Striking or assaulting warrant, noncommissioned, or petty officer in the execution of office*……	Art. 128 (*assault; assault consummated by a battery; assault with a dangerous weapon; assault upon warrant, noncommissioned or petty officer not in the execution of office*)
	- *Disobeying a warrant, noncommissioned, or petty officer*……	Art. 92
	- *Treating with contempt or being disrespectful in language or deportment toward warrant, noncommissioned, or petty officer in the execution of office*……	Art. 117
92	Failure to obey order or regulation	

93	Cruelty and maltreatment	
94	Mutiny and sedition	
	- *Mutiny by creating violence or disturbance*……	Art. 90; Art. 116; Art. 128 (*assault*)
	- *Mutiny by refusing to obey orders or perform duties*……	Art. 90 (*willful disobedience of commissioned officer*); Art. 91 (*willful disobedience of warrant, noncommissioned, or petty officer*); Art. 92
	- *Sedition*……	Art. 116; Art. 128 (*assault*)
95	Resistance, flight, breach of arrest, and escape	
	- *Resisting apprehension*……	Art. 128 (*assault; assault consummated by battery*)
Article	*Offense*	*Lesser Included Offense*
96	Releasing prisoner without proper authority	
	- *Suffering a prisoner to escape through design*……	Art. 96 (*neglect*)
97	Unlawful detention	
98	Noncompliance with procedural rules	
99	Misbehavior before the enemy	
	- *Running away*……	Art. 85 (*desertion with intent to avoid hazardous duty or important service*); Art. 86 (*absence without authority; going from appointed place of duty*)
	- *Endangering safety of a command, unit, place, ship, or military property*……	Art. 92
	- *Casting away arms or ammunition*……	Art. 108
	- *Cowardly conduct*……	Art. 85 (*desertion with intent to avoid hazardous duty or important service*); Art. 86; Art. 99 (*running away*)
	- *Quitting place of duty to plunder or pillage*……	Art. 86 (*going from appointed place of duty*)
100	Subordinate compelling surrender	
101	Improper use of countersign	
102	Forcing a safeguard	
103	Captured or abandoned property	
104	Aiding the enemy	
105	Misconduct as a prisoner	
106	Spies	
106a	Espionage	
107	False official statements	
108	Military property of the United States—sale, loss, damage, destruction, or wrongful disposition	
	- *Willfully damaging military property*……	Art. 108 (*damaging military property through neglect*); Art. 109 (*willfully damaging non-military property*)
	- *Willfully suffering military property to be damaged*……	Art. 108 (*through neglect suffering military property to be damaged*)
	- *Willfully destroying military property*……	Art. 108 (*through neglect destroying military property; willfully damaging military property; through neglect damaging military property*); Art. 109 (*willfully destroying non-military property; willfully damaging non-military property*)
	- *Willfully suffering military property to be destroyed*……	Art. 108 (*through neglect suffering military property to be destroyed; willfully suffering military property to be damaged; through neglect suffering military property to be damaged*)
	- *Willfully losing military property*……	Art. 108 (*through neglect, losing military property*)
	- *Willfully suffering military property to be lost*……	Art. 108 (*through neglect, suffering military property to be lost*)
	- *Willfully suffering military property to be sold*……	Art. 108 (*through neglect, suffering military property to be sold*)
	- *Willfully suffering military property to be wrongfully disposed of*……	Art. 108 (*through neglect, suffering military property to be wrongfully disposed of in the manner alleged*)
109	Property other than military property of the United States—waste, spoilage, or destruction	

110	Improper hazarding of vessel	
	- *Willfully and wrongfully hazarding a vessel*……	Art. 110 (*negligently hazarding a vessel*)
	- *Willfully and wrongfully suffering a vessel to be hazarded*……	Art. 110 (*negligently suffering a vessel to be hazarded*)
111	Drunken or reckless operation of vehicle, aircraft, or vessel	
	- *Reckless, wanton, or impaired operation or physical control of a vessel*..	Art. 110
	- *Drunken operation of a vehicle, vessel, or aircraft while drunk or with a blood or breath alcohol concentration in violation of the described per se standard*……	Art. 110; Art. 112
Article	*Offense*	*Lesser Included Offense*
112	Drunk on duty	
112a	Wrongful use, possession, etc., of controlled substances	
	- *Wrongful use of controlled substance*……	Art. 112a (*wrongful possession of controlled substance*)
	- *Wrongful manufacture of controlled substance*……	Art. 112a (*wrongful possession of controlled substance*)
	- *Wrongful introduction of controlled substance*……	Art. 112a (*wrongful possession of controlled substance*)
	- *Wrongful possession, manufacture, or introduction of a controlled substance with intent to distribute*……	Art. 112a (*wrongful possession, manufacture, or introduction of controlled substance*)
113	Misbehavior of sentinel or lookout	
	- *Drunk on post*……	Art. 112; Art. 92 (*dereliction of duty*)
	- *Sleeping on post*……	Art. 92 (*dereliction of duty*)
	- *Leaving post*……	Art. 92 (*dereliction of duty*); Art. 86 (*going from appointed place of duty*)
114	Dueling	
115	Malingering	
116	Riot or breach of peace	
	- *Riot*……	Art. 116 (*Breach of peace*)
117	Provoking speeches or gestures	
118	Murder	
	- *Premeditated murder and murder during certain offenses*……	Art. 118 (*intent to kill or inflict great bodily harm; act inherently dangerous to another*)
	- *All murders under Article 118*……	Art. 119 (*involuntary manslaughter*); Art. 128 (*assault; assault consummated by battery; aggravated assault*)
	- *Murder as defined in Article 118(1), (2), and (4)*……	Art. 119 (*voluntary manslaughter*)
119	Manslaughter	
	- *Voluntary manslaughter*……	Art. 119 (*involuntary manslaughter*); Art. 128 (*assault; assault consummated by battery; aggravated assault*)
	- *Involuntary manslaughter*……	Art. 128 (*assault; assault consummated by battery*)
119a	Death or injury of an unborn child	
	- *Killing an unborn child*……	Art. 119a (*injuring an unborn child*)
	- *Intentionally killing an unborn child*……	Art. 119a (*killing an unborn child; injuring an unborn child*)
120[1]	Rape and sexual assault generally	
	- *Rape*	
	- *By unlawful force*……	Art. 120(b)(1)(B); Art. 120(c); Art. 120(d); Art. 128 (*assault; assault consummated by battery*)
	- *By force causing or likely to cause death or grievous bodily harm to any person*……	Art. 120(a)(1); Art. 120(b)(1)(B); Art. 120(c); Art. 120(d); Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; assault intentionally inflicting grievous bodily harm*)
	- *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*……	Art. 120(b)(1)(B); Art. 120(c); Art. 120(d)

[1] This chart only includes the 2012 version of Art. 120. *See* Appendix 27 and 28 for prior versions.

	- By first rendering that other person unconscious…….	Art. 120(b)(2); Art. 120(c); Art. 120(d)
	- By administering to that person a drug, intoxicant……	Art. 120(c); Art. 128 (*assault; assault consummated by battery*)
	- Sexual Assault	
	- By threatening or placing that other person in fear……..	Art. 120(d)
	- By causing bodily harm to that other person……..	Art. 120(d); Art. 128 (*assault; assault consummated by battery*)
Article	*Offense*	*Lesser Included Offense*
	- By making a fraudulent representation that the sexual act serves a professional purpose……..	Art. 120(d)
	- Inducing a belief by any artifice, pretense, or concealment that the person is another person……	Art. 120(d)
	- Upon another person when the person know or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring……	Art. 120(d)
	- When the other person is incapable of consenting…….	Art. 120(d)
	- Aggravated sexual contact	
	- By force……..	Art. 120(d); Art. 128 (*assault; assault consummated by battery*)
	- By force likely to cause death or grievous bodily harm……	Art. 120(d); Art. 128 (*assault; assault consummated by battery*)
	- By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping……..	Art. 120(d)
	- By first rendering that person unconscious……..	Art. 120(d); Art. 128 (*assault; assault consummated by battery*)
	- By administering a drug, intoxicant, or other similar substance……..	Art. 120(c); Art. 128 (*assault; assault consummated by battery*)
	- Abusive sexual contact……	Art. 128 (*assault; assault consummated by battery*)
120a	Stalking	
120b	Rape and sexual assault of a child	
	- Rape of a child	
	- Of a child who has not attained the age of 12……	Art. 120b(c); Art. 120c
	- By force of a child who has attained the age of 12……..	Art. 120b(b); Art. 120b(c); Art. 128 (*assault consummated by battery upon a child under 16 years*)
	- By threatening or placing in fear a child who has attained the age of 12……	Art. 120b(b); Art. 120b(c)
	- By rendering unconscious a child who has attained the age of 12……	Art. 120b(b); Art. 120b(c); Art. 128 (*assault consummated by battery upon a child under 16 years*)
	- Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12……	Art. 120b(b); Art. 120b(c); Art. 128 (*assault consummated by battery upon a child under 16 years*)
	- Sexual assault of a child	
	- Sexual assault of a child who has not attained the age of 12 involving contact between penis and vulva or anus or mouth..	Art. 120b(c)
	- Sexual assault of a child who has attained the age of 12 involving penetration of vulva, anus, or mouth by any part of of the body or any object……..	Art. 120b(c)
120c	Other sexual misconduct	
121	Larceny and wrongful appropriation	
	- Larceny……	Art. 121 (*wrongful appropriation*)
	- Larceny of military property……	Art. 121 (*wrongful appropriation; larceny of property other than military property*)
122	Robbery	Art. 121 (*larceny; wrongful appropriation*); Art. 128 (*assault; assault consummated by battery: assault with a dangerous weapon; assault intentionally inflicting grievous bodily harm*)
123	Forgery	
123a	Making, drawing, or uttering check, draft, or order without sufficient funds	
124	Maiming	Art. 128 (*assault; assault consummated by batter;*

		assault with a dangerous weapon; assault intentionally inflicting grievous bodily harm)
125	Sodomy	
	- *With a child under the age of 16*……	Art. 125 (*forcible sodomy*)

Article	*Offense*	*Lesser Included Offense*
126	Arson	
	- *Aggravated arson*……	Art. 126 (*simple arson*)
127	Extortion	
128	Assault	
	- *Assault consummated by a battery*……	Art. 128 (*simple assault)*
	- *Assault upon a commissioned, warrant, noncommissioned, or petty officer*……	Art. 128 (*simple assault; assault consummated by battery*)
	- *Assault upon a sentinel or lookout in the execution of duty*……	Art. 128 (*simple assault; assault consummated by battery*)
	- *Assault consummated by a battery upon a child under 16 years*……	Art. 128 (*simple assault; assault consummated by battery*)
	- *Assault with a dangerous weapon or other means of force likely to produce death or grievous bodily harm*……	Art. 128 (*simple assault; assault consummated by battery; (when committed upon a child under the age of 16 years; assault consummated by battery upon a child under the age of 16 years*))
	- *Assault in which grievous bodily harm is intentionally inflicted*……	Art. 128 (*simple assault; assault consummated by battery; assault with a dangerous weapon (when committed upon a child under the age of 16 years; assault consummated by battery upon a child under the age of 16 years*))
129	Burglary	Art. 130 (*housebreaking*)
130	Housebreaking	
131	Perjury	
132	Frauds against the United States	
133	Conduct unbecoming an officer and gentleman	
134	Abusing public animal	
134	Adultery	
134	Assault – with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking	
	- *Assault with intent to murder*……	Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon; assault intentionally inflicting grievous bodily harm*); Art. 134 (*assault with intent to commit voluntary manslaughter; willful or careless discharge of a firearm*)
	- *Assault with intent to commit voluntary manslaughter*……	Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon; assault intentionally inflicting grievous bodily harm*); Art. 134 (*willful or careless discharge of a firearm*)
	- *Assault with intent to commit rape or sodomy*……	Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon*)
	- *Assault with intent to commit burglary*……	Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon*); Art. 134 (*assault with intent to commit housebreaking*)
	- *Assault with intent to commit robbery, arson, or housebreaking*……	Art. 128 (*assault; assault consummated by battery; assault with a dangerous weapon*)
134	Bigamy	
134	Bribery and graft	
	- *Bribery*……	Art. 134 (*graft*)
134	Burning with intent to defraud	
134	Check, worthless, making and uttering – by dishonorably failing to maintain funds	
134	Child endangerment	
	- *Child Endangerment by Design*……	Art. 134 (*child endangerment by culpable negligence*)

Article	*Offense*	*Lesser Included Offense*
134	Child pornography	
	- *Possessing child pornography with intent to distribute*……	Art. 134 (*possessing child pornography*)
	- *Distributing child pornography*……	Art. 134 (*possessing child pornography; possessing child pornography with intent to distribute*)
	- *Producing child pornography*……	Art. 134 (*possessing child pornography*)

134	Cohabitation, wrongful	
134	Correctional custody – offenses against	
134	Debt, dishonorably failing to pay	
134	Disloyal statements	
134	Disorderly conduct, drunkenness	
134	Drinking liquor with prisoner	
134	Drunkenness – incapacitation for performance of duties through prior wrongful indulgence in intoxicating liquor or any drug	
134	False or unauthorized pass offenses	
	- Wrongful use or possession of false or unauthorized military or official pass, permit, discharge certificate, or identification card, with the intent to defraud or deceive……	Art. 134 (*same offenses, except without the intent to defraud or deceive*)
134	False pretenses, obtaining services under	
134	False swearing	
134	Firearm, discharging – through negligence	
134	Firearm, discharging – willfully, under such circumstances as to endanger human life	Art. 134 (*firearm, discharging – through negligence*)
134	Fleeing scene of accident	
134	Fraternization	
134	Gambling with subordinate	
134	Homicide, negligent	
134	Impersonating a commissioned, warrant, noncommissioned, or petty officer, or an agent or official	
134	Indecent language	Art. 117 (*provoking speeches*)
134	Jumping from vessel into the water	
134	Kidnapping	
134	Mail: taking, opening, secreting, destroying, or stealing	Art. 121
134	Mails: depositing or causing to be deposited obscene matters in	
134	Misprision of serious offense	
134	Obstructing justice	
134	Wrongful interference with an adverse administrative proceeding	
134	Pandering and prostitution	
134	Parole, violation of	
134	Perjury: subornation of	
134	Public record: altering, concealing, removing, mutilating, obliterating, or destroying	
134	Quarantine: medical, breaking	Art. 134 (*breaking restriction*)
134	Reckless endangerment	
134	Restriction, breaking	
134	Seizure: destruction, removal, or disposal of property to prevent	
134	Self-injury without intent to avoid service	
134	Sentinel or lookout: offenses against or by	
134	Soliciting another to commit an offense	
134	Stolen property: knowingly receiving, buying, concealing	
134	Straggling	
134	Testify: wrongful refusal	
134	Threat or hoax designed or intended to cause panic or public fear	
	- Threat……	Art. 134 (*communicating a threat*); Art. 128 (*assault*)
134	Threat, communicating	Art. 117
134	Unlawful entry	
134	Weapon: concealed, carrying	
134	Wearing unauthorized insignia, decoration, badge, ribbon, device or lapel button	

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Changes to the Discussion Accompanying the Manual for Courts-Martial, United States

Section 1. The Discussion to Part I of the Manual for Courts-Martial, United States, is amended as follows:

(a) The Discussion immediately following Paragraph 4 is amended to read as follows:

''The Department of Defense, in conjunction with the Department of Homeland Security, has published supplementary materials to accompany the Manual for Courts-Martial. These materials consist of a Discussion (accompanying the Preamble, the Rules for Courts-Martial, and the Punitive Articles), an Analysis, and various appendices. These supplementary materials do not constitute the official views of the Department of Defense, the Department of Homeland Security, the Department of Justice, the military departments, the United States Court of Appeals for the Armed Forces, or any other authority of the Government of the United States, and they do not constitute rules. *Cf., e.g.,* 5 U.S.C. 551 (1982). The supplementary materials do not create rights or responsibilities that are binding on any person, party, or other entity (including any authority of the Government of the United States whether or not included in the definition of ''agency'' in 5 U.S.C. 551(1)). Failure to comply with matter set forth in the supplementary materials does not, of itself, constitute error, although these materials may refer to requirements in the rules set forth in the Executive Order or established by other legal authorities (for example, binding judicial precedents applicable to courts martial) which are based on sources of authority independent of the supplementary materials. *See* Appendix 21 in this Manual.

The 1995 amendment to paragraph 4 of the Preamble eliminated the practice of identifying the Manual for Courts-Martial, United States, by a particular year. Historically the Manual had been published in its entirety sporadically (*e.g.,* 1917, 1921, 1928, 1949, 1951, 1969 and 1984) with amendments to it published piecemeal. It was therefore logical to identify the Manual by the calendar year of publication, with periodic amendments identified as ''Changes'' to the Manual. Beginning in 1995, however, a new edition of the Manual was published in its entirety and a new naming

convention was adopted. *See* Exec. Order No. 12960. Beginning in 1995, the Manual was to be referred to as ''Manual for Courts-Martial, United States (19xx edition).'' Amendments made to the Manual can be researched in the relevant Executive Order as referenced in Appendix 25. Although the Executive Orders were removed from Appendix 25 of the Manual in 2012 to reduce printing requirements, they can be accessed online. *See* Appendix 25. The new changes to the Manual will also be annotated in the Preface.

Executive Order 13262, dated April 11, 2002, mandated that, ''The Manual shall be identified as 'Manual for Courts-Martial, United States (2002 edition).' '' Therefore, the preambles in the 2005 and 2008 Manuals were improperly amended. In 2013, the preamble was amended to identify new Manuals based on their publication date.''

Section 2. The Discussion to Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) Delete the first two ''Notes'' in the discussion immediately following R.C.M. 307(c)(3).

(b) Insert the words ''For Article 134 offenses, also refer to paragraph 60c(6) in Part IV.'' after the words ''How to draft specifications.'' in the discussion immediately following R.C.M. 307(c)(3).

(c) Delete the ''Note'' below (G) in the discussion immediately following R.C.M. 307(c)(3).

(d) Part (G)(i) in the discussion immediately following R.C.M. 307(c)(3) is amended to read as follows:

''(i) *Elements.* The elements of the offense must be alleged, either expressly or by necessary implication, except that article 134 specifications must expressly allege the terminal element. *See* paragraph 60c(6) in Part IV. If a specific intent, knowledge, or state of mind is an element of the offense, it must be alleged.''

(e) Part (G)(v) in the discussion immediately following R.C.M. 307(c)(3) is inserted to read as follows:

''(v) *Lesser Included Offenses.* The elements of the contemplated lesser included offense should be compared with the elements of the greater offense to determine if the elements of the lesser offense are derivative of the greater offense and vice versa. *See* discussion following paragraph 3b(1)(c) in Part IV and the related analysis in Appendix 23.''

(f) The discussion immediately following R.C.M. 307(c)(4) is amended to read as follows:

''The prohibition against unreasonable multiplication of charges addresses those features of military law that increase the potential for overreaching in the exercise of prosecutorial discretion. It is based on reasonableness, and has no foundation in Constitutional rights. To determine if charges are unreasonably multiplied, see R.C.M. 906(b)(12). Because prosecutors are free to plead in the alternative, it may be reasonable to charge two or more offenses that arise from one transaction if sufficient doubt exists as to the facts or the law. In no case should both an offense and a lesser included offense thereof be separately charged. *See also* Part IV, Para. 3, and R.C.M. 601(e)(2) concerning referral of several offenses.''

(g) The Discussion immediately following R.C.M. 405(g)(1)(B) is amended to read as follows:

''In preparing for the investigation, the investigating officer should consider what evidence, including evidence that may be obtained by subpoena duces tecum, will be necessary to prepare a thorough and impartial investigation. The investigating officer should consider, as to potential witnesses, whether their personal appearance will be necessary. Generally, personal appearance is preferred, but the investigating officer should consider whether, in light of the probable importance of a witness' testimony, an alternative to testimony under subsection (g)(4)(A) of this rule would be sufficient.

After making a preliminary determination of what witnesses will be produced and other evidence considered, the investigating officer should notify the defense and inquire whether it requests the production of other witnesses or evidence. In addition to witnesses for the defense, the defense may request production of witnesses whose testimony would favor the prosecution.

Once it is determined what witnesses the investigating officer intends to call, it must be determined whether each witness is reasonably available. That determination is a balancing test. The more important the testimony of the witness, the greater the difficulty, expense, delay, or effect on military operations must be to permit nonproduction. For example, the temporary absence of a witness on leave for 10 days would normally justify using an alternative to that witness' personal appearance if the sole reason for the witness' testimony was to impeach the credibility of another witness by reputation evidence, or to establish a mitigating character trait of the accused. On the other hand, if the same witness was the only eyewitness to the offense, personal appearance would be required if the defense requested it and the witness is otherwise reasonably available. The time and place of the investigation may be changed if reasonably necessary to permit the appearance of a witness. Similar considerations apply to the production of evidence, including evidence that may be obtained by subpoena duces tecum.

If the production of witnesses or evidence would entail substantial costs or delay, the investigating officer should inform the commander who directed the investigation.

The provision in (B), requiring the investigating officer to notify the appropriate authorities of requests by the accused for information privileged under Mil. R. Evid. 505 or 506, is for the purpose of placing the appropriate authority on notice that an order, as authorized under subparagraph (g)(6), may be required to protect whatever information the government may decide to release to the accused.''

(h) The following Discussion is inserted immediately after R.C.M. 405(g)(2)(C)(i):

''Evidence shall include documents and physical evidence which are relevant to the investigation and not cumulative. *See* subsection (g)(1)(B). The investigating officer may discuss factors affecting reasonable availability with the custodian and with others. If the custodian determines that the evidence is not reasonably available, the reasons for that determination should be provided to the investigating officer.''

(i) The following Discussion is inserted immediately after R.C.M. 405(g)(2)(C)(ii):

''A subpoena duces tecum to produce books, papers, documents, data, electronically stored information, or other objects for pretrial investigation pursuant to Article 32 may be issued by the investigating officer or counsel representing the United States. *See* R.C.M. 703(f)(4)(B).

The investigating officer may find that evidence is not reasonably available if: the subpoenaed party refuses to comply with the duly issued subpoena duces tecum; the evidence is not subject to compulsory process; or the significance of the evidence is outweighed by the difficulty, expense, delay, and effect on military operations of obtaining the evidence.''

(j) The Discussion immediately following R.C.M. 405(g)(3) is amended to read as follows:

''*See* Department of Defense Joint Travel Regulations, Vol 2, paragraph C7910.''

(k) The Discussion immediately following R.C.M. 405(i) is amended to read as follows:

''With regard to all evidence, the investigating officer should exercise reasonable control over the scope of the inquiry. See subsection (e) of this rule. An investigating officer may consider any evidence, even if that evidence would not be admissible at trial. However, see subsection (g)(4) of this rule as to limitations on the ways in which testimony may be presented. Certain rules relating to the form of testimony which may be considered by the investigating officer appear in subsection (g) of this rule.

Mil. R. Evid. 412 evidence, including closed hearing Testimony, must be protected pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. Evidence deemed admissible by the investigating officer should be made a part of the report of investigation. *See* subsection j(2)(C), *infra.* Evidence deemed inadmissible, and the testimony taken during the closed hearing, should not be included in the report of investigation and should be safeguarded. The investigating officer and counsel representing the United States are responsible for careful handling of any such evidence to prevent indiscriminate viewing or disclosure. Although R.C.M. 1103A does not apply, its requirements should be used as a model for safeguarding inadmissible evidence and closed hearing testimony. The convening authority and the appropriate judge advocate are permitted to review such safeguarded evidence and testimony. *See* R.C.M. 601(d)(1).''

(l) The Discussion immediately following R.C.M. 703(e)(2)(B) is amended to read as follows:

''A subpoena may not be used to compel a witness to appear at an examination or interview before trial, but a subpoena may be used to obtain witnesses for a deposition or a court of inquiry. In accordance with subsection (f)(4)(B) of this rule, a subpoena duces tecum to produce books, papers, documents, data, or other objects or electronically stored information for pretrial

investigation pursuant to Article 32 may be issued, following the convening authority's order directing such pretrial investigation, by either the investigating officer appointed under R.C.M. 405(d)(1) or the counsel representing the United States.

A subpoena normally is prepared, signed, and issued in duplicate on the official forms. See Appendix 7 for an example of a Subpoena with certificate of service (DD Form 453) and a Travel Order (DD Form 453–1).''

(m) The Discussion immediately following R.C.M. 703(e)(2)(D) is amended to read as follows:

''If practicable, a subpoena should be issued in time to permit service at least 24 hours before the time the witness will have to travel to comply with the subpoena.

Informal service. Unless formal service is advisable, the person who issued the subpoena may mail it to the witness in duplicate, enclosing a postage-paid envelope bearing a return address, with the request that the witness sign the acceptance of service on the copy and return it in the envelope provided. The return envelope should be addressed to the person who issued the subpoena. The person who issued the subpoena should include with it a statement to the effect that the rights of the witness to fees and mileage will not be impaired by voluntary compliance with the request and that a voucher for fees and mileage will be delivered to the witness promptly on being discharged from attendance.

Formal service. Formal service is advisable whenever it is anticipated that the witness will not comply voluntarily with the subpoena. Appropriate fees and mileage must be paid or tendered. *See* Article 47. If formal service is advisable, the person who issued the subpoena must assure timely and economical service. That person may do so by serving the subpoena personally when the witness is in the vicinity. When the witness is not in the vicinity, the subpoena may be sent in duplicate to the commander of a military installation near the witness. Such commanders should give prompt and effective assistance, issuing travel orders for their personnel to serve the subpoena when necessary.

Service should ordinarily be made by a person subject to the code. The duplicate copy of the subpoena must have entered upon it proof of service as indicated on the form and must be promptly returned to the person who issued the subpoena. If service cannot be made, the person who issued the subpoena must be informed promptly. A stamped, addressed envelope should be provided for these purposes.

For purposes of this Rule, *hardship* is defined as any situation which would substantially preclude reasonable efforts to appear that could be solved by providing transportation for fees and mileage to which the witness is entitled for appearing at the hearing in question.''

(n) The Discussion immediately following R.C.M. 703(e)(2)(G)(i) is amended to read as follows:

''A warrant of attachment (DD Form 454) may be used when necessary to compel a witness to appear or produce evidence under this rule. *See* Appendix 7. A warrant of attachment is a legal order addressed to an official directing that official to have the person named in the order brought before a court.

Subpoenas issued under R.C.M. 703 are Federal process and a person not subject to the code may be prosecuted in a Federal civilian court under Article 47 for failure to comply with a subpoena issued in compliance with this rule and formally served.

Failing to comply with such a subpoena is a felony offense, and may result in a fine or imprisonment, or both, at the discretion of the district court. The different purposes of the warrant of attachment and criminal complaint under Article 47 should be borne in mind. The warrant of attachment, available without the intervention of civilian judicial proceedings, has as its purpose the obtaining of the witness' presence, testimony, or documents. The criminal complaint, prosecuted through the civilian Federal courts, has as its purpose punishment for failing to comply with process issued by military authority. It serves to vindicate the military interest in obtaining compliance with its lawful process.

For subpoenas issued for pretrial investigation pursuant to Article 32 under subsection (f)(4)(B), the General Court-Martial convening authority with jurisdiction over the case may issue a warrant of attachment to compel production of documents.''

(o) The Discussion immediately following R.C.M. 703(f)(1) is amended to read as follows:

''Relevance is defined by Mil. R. Evid 401. Relevant evidence is necessary when it is not cumulative and when it would contribute to a party's presentation of the case in some positive way on a matter in issue. A matter is not in issue when it is stipulated as a fact. The discovery and introduction of classified or other government information is controlled by Mil. R. Evid. 505 and 506.''

(p) The following Discussion is added immediately after R.C.M. 704(f)(4)(B):

''Public Law 112–81, *The FY12 National Defense Authorization Act,* § 542, amended Article 47 to allow the issuance of subpoenas duces tecum for Article 32 hearings. Although the amended language cites Article 32(b), this new subpoena power extends to documents subpoenaed by the investigating officer, whether requested by the defense or the government.''

(q) The Discussion immediately following R.C.M. 809(a) is amended to read as follows:

''Article 48 makes punishable ''direct'' contempt, as well as ''indirect'' or ''constructive'' contempt. ''Direct'' contempt is that which is committed in the presence of the court-martial or its immediate proximity. ''Presence'' includes those places outside the courtroom itself, such as waiting areas, deliberation rooms, and other places set aside for the use of the court-martial while it is in session. ''Indirect'' or ''constructive'' contempt is non-compliance with lawful writs, processes, orders, rules, decrees, or commands of the court-martial. A ''direct'' or ''indirect'' contempt may be actually seen or heard by the court-martial, in which case it may be punished summarily. *See* subsection (b)(1) below. A ''direct'' or ''indirect'' contempt may also be a contempt not actually observed by the court-martial; for example, when an unseen person makes loud noises, whether inside or outside the courtroom, which impede the orderly progress of the proceedings. In such a case the procedures for punishing for contempt are more extensive. *See* subsection (b)(2) below.

The words ''any person,'' as used in Article 48, include all persons, whether or not subject to military law, except the military judge, members, and foreign nationals outside the territorial limits of the United States who are not subject to the code. The military judge may order the offender removed whether or not contempt proceedings are held. It may be appropriate to warn a person whose conduct is improper that persistence in a course of behavior may result in removal or punishment for contempt. *See* R.C.M. 804, 806.

Each contempt may be separately punished.

A person subject to the code who commits contempt may be tried by court-martial or otherwise disciplined under Article 134 for such misconduct in addition to or instead of punishment for contempt. *See* paragraph 108, Part IV. *See also* Article 98. The 2010 amendment of Article 48 expanded the contempt power of military courts to enable them to enforce orders, such as discovery orders or protective orders regarding evidence, against military or civilian attorneys. Persons not subject to military jurisdiction under Article 2, having been duly subpoenaed, may be prosecuted in Federal civilian court under Article 47 for neglect or refusal to appear or refusal to qualify as a witness or to testify or to produce evidence.''

(r) The Discussion immediately following R.C.M. 906(b)(5) is amended to read as follows:

''Each specification may state only one offense. R.C.M. 307(c)(4). A duplicitous specification is one which alleges two or more separate offenses. Lesser included offenses (*see* paragraph 3, Part IV) are not separate, nor is a continuing offense involving separate acts. The sole remedy for a duplicitous specification is severance of the specification into two or more specifications, each of which alleges a separate offense contained in the duplicitous specification. However, if the duplicitousness is combined with or results in other defects, such as misleading the accused, other remedies may be appropriate. See subsection (b)(3) of this rule. *See also* R.C.M. 907(b)(3).

(s) The Discussion immediately following R.C.M. 906(b)(12) is amended to read as follows:

''Unreasonable multiplication of charges as applied to findings and sentence is a limitation on the military's discretion to charge separate offenses and does not have a foundation in the Constitution. The concept is based on reasonableness and prohibition against prosecutorial overreaching. In contrast, multiplicity is grounded in the Double Jeopardy clause of the Fifth

Amendment. It prevents an accused from being twice punished for one offense if it is contrary to the intent of Congress. *See* R.C.M. 907(b)(3). Therefore, a motion for relief from unreasonable multiplication of charges as applied to findings and sentence differs from a motion to dismiss on the grounds of multiplicity.

The following non-exhaustive factors should be considered when determining whether two or more offenses are unreasonably multiplied: Whether the specifications are aimed at distinctly separate criminal acts; whether they represent or exaggerate the accused's criminality; whether they unreasonably increase his or her exposure to punishment; and whether they suggest prosecutorial abuse of discretion in drafting of the specifications. Because prosecutors are permitted to plead in the alternative based on exigencies of proof, a ruling on this motion ordinarily should be deferred until after findings are entered.''

(t) The Discussion immediately following R.C.M. 907(b)(3) is amended to read as follows:

''Multiplicity is a legal concept, arising from the Double Jeopardy clause of the Fifth Amendment, which provides that no person shall be put in jeopardy twice for the same offense. Absent legislative intent to the contrary, an accused cannot be convicted and punished for violations of two or more statutes if they arise from a single act. Where Congress intended to impose multiple punishments for the same act, imposition of such sentence does not violate the Constitution.

Multiplicity differs from unreasonable multiplication of charges. If two offenses are not multiplicious, they nonetheless may constitute an unreasonable multiplication of charges as applied to findings or sentence. *See* R.C.M. 906(b)(12). Unreasonable multiplication of charges is a limitation on the military's discretion to charge separate offenses; it does not have a foundation in the Constitution; and it is based on reasonableness and the prohibition against prosecutorial overreaching. The military judge is to determine, in his or her discretion, whether the charges constitute unreasonable multiplication of charges as applied to findings or sentencing. *See* R.C.M. 906(b)(12).

To determine if two charges are multiplicious, the practitioner should first determine whether they are based on separate acts. If so, the charges are not multiplicious because separate acts may be charged and punished separately. If the charges are based upon a single act, the practitioner should next determine if it was Congress's intent to impose multiple convictions and punishments for the same act. Although there are multiple sources to determine Congressional intent (*e.g.,* the statute itself or legislative history), when there is no overt expression, Congressional intent may be inferred based on the elements of the charged statutes and their relationship to each other. If each statute contains an element not contained in the other, it may be inferred that Congress intended they be charged and punished separately. Likewise, if each statue contains the same elements, it may be inferred that Congress did not intend they be charged and punished separately. A lesser included offense will always be multiplicious if charged separately, but offenses do not have to be lesser included to be multiplicious.

Ordinarily, a specification should not be dismissed for multiplicity before trial. The less serious of any multiplicious specifications shall be dismissed after findings have been reached. Due consideration must be given, however, to possible post-trial or appellate action with regard to the remaining specification.''

(u) The Discussion immediately following R.C.M. 910(a)(1) is amended to read as follows:

''*See* paragraph 3, Part IV, concerning lesser included offenses. When the plea is to a lesser included offense without the use of exceptions and substitutions, the defense counsel should provide a written revised specification to be included in the record as an appellate exhibit.

A plea of guilty to a lesser included offense does not bar the prosecution from proceeding on the offense as charged. *See also* subsection (g) of this rule.

A plea of guilty does not prevent the introduction of evidence, either in support of the factual basis for the plea, or, after findings are entered, in aggravation. *See* R.C.M. 1001(b)(4).

(v) The Discussion immediately following R.C.M. 916(j)(2) is amended to read as follows:

''Examples of ignorance or mistake which need only exist in fact include: Ignorance of the fact that the person assaulted was an officer; belief that property allegedly stolen belonged to the accused; belief that a controlled substance was really sugar.

Examples of ignorance or mistake which must be reasonable as well as actual include: Belief that the accused charged with unauthorized absence had permission to go; belief that the accused had a medical ''profile'' excusing shaving as otherwise required by regulation. Some offenses require special standards of conduct (*see,* for example, paragraph 68, Part IV, Dishonorable failure to maintain sufficient funds); the element of reasonableness must be applied in accordance with the standards imposed by such offenses.

Examples of offenses in which the accused's intent or knowledge is immaterial include: Any rape of a child, or any sexual assault or sexual abuse of a child when the child is under 12 years old. However, such ignorance or mistake may be relevant in extenuation and mitigation.

See subsection (l)(1) of this rule concerning ignorance or mistake of law.''

(w) The Discussion immediately following R.C.M. 918(a)(1) is amended to read as follows:

''*Exceptions and Substitutions.* One or more words or figures may be excepted from a specification and, when necessary, others substituted, if the remaining language of the specification, with or without substitutions, states an offense by the accused which is punishable by the court-martial. Changing the date or place of the offense may, but does not necessarily, change the nature or identity of an offense.

If A and B are joint accused and A is convicted but B is acquitted of an offense charged, A should be found guilty by excepting the name of B from the specification as well as any other words indicating the offense was a joint one.

Lesser Included Offenses. If the evidence fails to prove the offense charged but does prove an offense necessarily included in the offense charged, the factfinder may find the accused not guilty of the offense charged but guilty of the lesser included offense. *See* paragraph 3 of Part IV concerning lesser included offenses.

Offenses arising from the same act or transaction. The accused may be found guilty of two or more offenses arising from the same act or transaction, whether or not the offenses are separately punishable. *But see* R.C.M. 906(b)(12); 907(b)(3)(B); 1003(c)(1)(C).

(x) The Discussion immediately following R.C.M. 1003(c)(1)(C) is amended to read as follows:

''Multiplicity is addressed in R.C.M. 907(b)(3)(B). Unreasonable multiplication of charges is addressed in R.C.M. 906(b)(12).''

(y) The following Discussion is inserted immediately after R.C.M. 1103(b)(3)(N):

''Per R.C.M. 1114(f), consult service regulations for distribution of promulgating orders.''

(z) The following Discussion is inserted immediately after R.C.M. 1103(g)(3):

''Subsections (b)(3)(N) and (g)(3) of this rule were added to implement Article 54(e), UCMJ, in compliance with the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81 § 586). Service of a copy of the record of trial on a victim is prescribed in R.C.M. 1104(b)(1)(E).''

(aa) The following Discussion is added immediately after R.C.M. 1104(b)(1)(E):

''Subsection (b)(1)(E) of this rule was added to implement Article 54(e), UCMJ, in compliance with the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81 § 586). The contents of the victim's record of trial is prescribed in R.C.M. 1103(g)(3)(C).

Promulgating orders are to be distributed in accordance with R.C.M. 1114(f).''

Section 3. The Discussion to Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) The Discussion immediately following Article 79(b)(1)(c) is amended to read as follows:

''The ''elements test'' is the proper method for determining lesser included offenses. *See United States* v. *Jones,* 68 M.J. 465 (C.A.A.F. 2010); *United States* v. *Schmuck,* 489 U.S. 705 (1985); Appendix 23 of this Manual. Paragraph 3b(1) was amended to comport with the elements test, which requires that the elements of the lesser offense must be a subset of the elements of the charged offense. The elements test does not require identical statutory language, and normal principals of statutory interpretation are permitted. The elements test is necessary to safeguard the due process requirement of notice to a criminal defendant.''

(b) The Discussion immediately following, paragraph 3, Article 79(b)(5), Conviction of lesser included offenses, is amended to read as follows:

''Practitioners must consider lesser included offenses on a case-by-case basis. *See United States v. Jones,* 68 M.J. 465 (C.A.A.F. 2010); *United States* v. *Alston,* 69 M.J. 214 (C.A.A.F. 2010); discussion following paragraph 3b(1)(c) above. The lesser included offenses listed in Appendix 12A were amended in 2013 to comport with the elements test; however, practitioners must analyze each lesser included offense on a case-by-case basis. *See* Appendix 23 of this Manual.''

(c) The following Discussion is inserted immediately after paragraph 60, Article 134(b)—General Article:

''The terminal element is merely the expression of one of the clauses under Article 134. See paragraph c below for an explanation of the clauses and rules for drafting specifications. More than one clause may be alleged and proven; however, proof of only one clause will satisfy the terminal element. For clause 3 offenses, the military judge may judicially notice whether an offense is capital. *See* Mil. R. Evid. 202.''

(d) The following Discussion is inserted immediately after paragraph 60, Article 134(c)(6)(a)—General Article:

''Clauses 1 and 2 are theories of liability that must be expressly alleged in a specification so that the accused will be given notice as to which clause or clauses to defend against. The words ''to the prejudice of good order and discipline in the armed forces'' encompass both paragraph c(2)(a), prejudice to good order and discipline, and paragraph c(2)(b), breach of custom of the Service. A generic sample specification is provided below:

''*In that _____, (personal jurisdiction data), did (at/on board location), on or about ____ 20____, (commit elements of Article 134 clause 1 or 2 offense), and that said conduct (was to the prejudice of good order and discipline in the armed forces) (and) (was of a nature to bring discredit upon the armed forces).*''

If clauses 1 and 2 are alleged together in the terminal element, the word ''and'' should be used to separate them. Any clause not proven beyond a reasonable doubt should be excepted from the specification at findings. *See* R.C.M. 918(a)(1). *See also* Appendix 23. Although using the conjunctive ''and'' to connect the two theories of liability is recommended, a specification connecting the two theories with the disjunctive ''or'' is sufficient to provide the accused reasonable notice of the charge against him. *See* Appendix 23.''

(e) The following Discussion is inserted immediately after paragraph 60, Article 134(c)(6)(b)—General Article:

''The words ''an offense not capital'' are sufficient to provide notice to the accused that a clause 3 offense has been charged and are meant to include all crimes and offenses not capital. A generic sample specification for clause 3 offenses is provided below:

In that _____, (personal jurisdiction data), did (at/on board location), on or about _____ 20____, (commit: address each element), an offense not capital, in violation of (name or citation of statute).

In addition to alleging each element of the federal or assimilated statute, practitioners should consider including, when appropriate and necessary, words of criminality (*e.g.,* wrongfully, knowingly, or willfully).''

Changes to Appendix 22, Analysis of the Military Rules of Evidence

(a) Delete the Note at the start of the first paragraph, Section I, General Provisions.

(b) Amend Section I, General Provisions to add the following:

''*2012 Amendment:* On December 1, 2011, the Federal Rules of Evidence (Fed. R. Evid.) were amended by restyling the rules to make them simpler to understand and use, without changing the substantive meaning of any rule.

After considering these changes to the Federal Rules, the Joint Service Committee on Military Justice (hereinafter ''the committee'') made significant changes to the Military Rules of Evidence (Mil. R. Evid.) in 2012. In addition to making stylistic changes to harmonize these rules with the Federal Rules, the committee also made changes to ensure that the rules addressed the admissibility of evidence, rather than the conduct of the individual actors. Like the Federal Rules of Evidence, these rules ultimately dictate whether evidence is admissible at courts-martial and, therefore, it is appropriate to phrase the rules with admissibility as the focus, rather than a focus on the actor (i.e., the commanding officer, military judge, accused, etc.).

The rules were also reformatted to achieve clearer presentation. The committee used indented paragraphs with headings and hanging indents to allow the practitioner to distinguish between different subsections of the rules. The restyled rules also reduce the use of inconsistent terms that are intended to mean the same thing but may, because of the inconsistent use, be misconstrued by the practitioner to mean something different.

With most changes, the committee made special effort to avoid any style improvement that might result in a substantive change in the application of the rule. However, in some rules, the committee rewrote the rule with the express purpose to change the substantive content of the rule in order to affect the application of the rule in practice. In the analysis of each rule, the committee clearly indicates whether the changes are substantive or merely stylistic. The reader is encouraged to consult the analysis of each rule if he or she has questions as to whether the committee intended that a change to the rule have an effect on a ruling of admissibility.''

(c) The analysis following M.R.E. 101 is amended to add the following language:

''*2012 Amendment:* In subsection (a), the phrase ''including summary courts-martial'' was removed because Rule 1101 already addresses the applicability of these rules to summary courts-martial. In subsection (b), the word ''shall'' was changed to ''will'' because the committee agreed with the approach of the Advisory Committee on Evidence Rules to minimize the use of words such as ''shall'' and ''should'' because of the potential disparity in application and interpretation of whether the word is precatory or proscriptive. *See* Fed. R. Evid. 101, Restyled Rules Committee Note. In making this change, the committee did not intend to change any result in any ruling on evidence admissibility.

The discussion section was added to this rule to alert the practitioner that discussion sections, which previously did not appear in Part III of the Manual, are included in this edition to elucidate the committee's understanding of the rules. The discussion sections do not have the force of law and may be changed by the committee without an Executive Order, as warranted by changes in applicable case law. The discussion sections should be considered treatise material and are non-binding on the practitioner.

The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(d) The analysis following M.R.E. 103 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(e) The analysis following M.R.E. 104 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(f) The title of the analysis section of M.R.E. 105 is changed to ''Limiting Evidence that is Not Admissible Against Other Parties or for Other Purposes.''

(g) The analysis following M.R.E. 105 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(h) The analysis following M.R.E. 106 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION II—Judicial Notice

(i) The analysis following M.R.E. 201 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence. Former subsection (d) was subsumed into subsection (c) and the remaining subsections were renumbered accordingly. In making these changes, the committee did not intend to change any result in any ruling on evidence admissibility.''

(j) The analysis following M.R.E. 202 is amended to add the following language:

''*2012 Amendment:* Former Rule 201A was renumbered so that it now appears as Rule 202. In previous editions, Rule 202 did not exist and therefore no other rules were renumbered as a result of this change. The phrase ''in accordance with Mil. R. Evid. 104'' was added to subsection (b) to clarify that Rule 104 controls the military judge's relevancy determination.

The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION III—EXCLUSIONARY RULES AND RELATED MATTERS CONCERNING SELF-INCRIMINATION, SEARCH AND SEIZURE, AND EYEWITNESS IDENTIFICATION

(k) The analysis following M.R.E. 301 is amended to add the following language:

''*2012 Amendment:* In subsection (c), the phrase ''concerning the issue of guilt or innocence'' was removed because this subsection applies to the presentencing phase of the trial as well as the merits phase. The use of the term ''concerning the issue of guilt or innocence'' incorrectly implied that the subsection only referred to the merits phase. The rule was renamed ''Limited Waiver,'' changed from ''Waiver by the accused,'' to indicate that when an accused who is on trial for two or more offenses testifies on direct as to only one of the offenses, he has only waived his rights with respect to that offense and no other. Also, the committee moved this subsection up in the rule and renumbered it in order to address the issue of limited waivers earlier because of the importance of preserving the accused's right against self-incrimination.

In subsection (d), the committee intends that the word ''answer'' be defined as ''a witness's response to a question posed.'' *Black's Law Dictionary* 100 (8th ed. 2004). Subsection (d) only applies when the witness's response to the question posed may be incriminating. It does not apply when the witness desires to make a statement that is unresponsive to the question asked for the purpose of gaining protection from the privilege.

Former subsections (d) and (f)(2) were combined for ease of use. The issues typically arise chronologically in the course of a trial, because a witness often testifies on direct without asserting the privilege and then, during the ensuing cross-examination, asserts the privilege.

Former subsection (b)(2) was moved to a discussion section because it addresses conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis. Also, the committee changed the word ''should'' to ''may'' in light of CAAF's holding in *United States* v. *Bell,* 44 M.J. 403 (C.A.A.F. 2006). In that case, CAAF held that Congress did not intend for Article 31(b) warnings to apply at trial, and noted that courts have the discretion, but not an obligation, to warn witnesses on the stand. *Bell,* 44 M.J. at 405. If a member testifies at an Article 32 hearing or court-martial without receiving Article 31(b) warnings, his Fifth Amendment rights have not been violated and those statements can be used against him at subsequent proceedings. *Id.* at 405–06.

As a result of the various changes, the committee renumbered the remaining subsections accordingly. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(l) The analysis following M.R.E. 302 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(m) The analysis following M.R.E. 303 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(n) The analysis following M.R.E. 304 is amended to add the following language:

''*2012 Amendment:* Former subsection (c), which contains definitions of words used throughout the rule, was moved so that it immediately follows subsection (a) and is highly visible to the practitioner. Former subsection (h)(3), which discusses denials, was moved to subsection (a)(2) so that it is included near the beginning of the rule to highlight the importance of an accused's right to remain silent. The committee moved and renumbered the remaining subsections so the rule generally follows the chronology of how the issues might arise at trial. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.

In subsection (b), the committee added the term ''allegedly'' in reference to derivative evidence to clarify that evidence is not derivative unless a military judge finds, by a preponderance of the evidence, that it is derivative.

In subsections (c)(5), (d), (f)(3)(A), and (f)(7), the committee replaced the word ''shall'' with ''will'' or ''must'' because the committee agreed with the approach of the Advisory Committee on Evidence Rules to minimize the use of words such as ''shall'' because of the potential disparity in application and interpretation of whether the word is precatory or proscriptive.

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(o) The analysis following M.R.E. 305 is amended to add the following language:

''*2012 Amendment:* The definition of ''person subject to the code'' was revised to clarify that it includes a person acting as a knowing agent only in subsection (c). Subsection (c) covers the situation where a person subject to the code is interrogating an accused, and therefore an interrogator would include a knowing agent of a person subject to the code, such as local law enforcement acting at the behest of a military investigator. The term ''person subject to the code'' is also used in subsection (f), which discusses a situation in which a person subject to the code is being interrogated. If a knowing agent of a person subject to the code is being interrogated, subsection (f) is inapplicable, unless that agent himself is subject to the code.

The definition of ''custodial interrogation'' was moved to subsection (b) from subsection (d) in order to co-locate the definitions. The definition is derived from *Miranda* v. *Arizona,* 384 U.S. 436, 444–45 (1966), and *Berkemer* v. *McCarty,* 468 U.S. 420, 442 (1984).

''Accused'' is defined as ''a person against whom legal proceedings have been initiated.'' *Black's Law Dictionary* 23 (8th ed. 2004). ''Suspect'' is defined as ''a person believed to have committed a crime or offense.'' *Id.* at 1287. In subsection (c)(1), the word ''accused'' is used in the first sentence because the rule generally addresses the admissibility of a statement at a court-martial, at which legal proceedings have been initiated against the individual. Throughout the remainder of the rule, ''accused'' and ''suspect'' are used together to elucidate that an interrogation that triggers the need for Article 31 warnings will often take place before the individual has become an accused and is still considered only a suspect.

Although not specifically outlined in subsection (c), the committee intends that interrogators and investigators fully comply with the requirements of *Miranda* v. *Arizona,* 384 U.S. 436 (1966). When a suspect is subjected to custodial interrogation, the prosecution may not use statements stemming from that custodial interrogation unless it demonstrates that the suspect was warned of his rights *Id.* at 444. At a minimum, *Miranda* requires that ''the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently.'' *Id.* A person subject to the code who is being interrogated may be entitled to both *Miranda* warnings and Article 31(b) warnings, depending on the circumstances.

The committee changed the titles of subsections (c)(2) and (c)(3) to ''Fifth Amendment Right to Counsel'' and ''Sixth Amendment Right to Counsel'' respectively because practitioners are more familiar with those terms. In previous editions, the subsections did not expressly state which right was implicated. Although the rights were clear from the text of the former rules, the new titles will allow practitioners to quickly find the desired rule.

Subsection (c)(3) is entitled ''Sixth Amendment Right to Counsel'' even though the protections of subsection (c)(3) exceed the constitutional minimal standard established by the Sixth Amendment and interpreted by the Supreme Court in *Montejo* v. *Louisiana,* 556 U.S. 778 (2009). In *Montejo,* the Court overruled its holding in *Michigan* v. *Jackson,* 475 U.S. 625 (1986), and found that a defendant's request for counsel at an arraignment or similar proceeding or an appointment of counsel by the court does not give rise to the presumption that a subsequent waiver by the defendant during a police-initiated interrogation is invalid. 556 U.S. at 798. In the military system, defense counsel is detailed to a court-martial. R.C.M. 501(b). The accused need not affirmatively request counsel. Under the Supreme Court's holding in *Montejo,* the detailing of defense counsel would not bar law enforcement from

initiating an interrogation with the accused and seeking a waiver of the right to have counsel present. However, subsection (c)(3) provides more protection than the Supreme Court requires. Under this subsection, if an accused is represented by counsel, either detailed or retained, he or she may not be interrogated without the presence of counsel. This is true even if, during the interrogation, the accused waives his right to have counsel present. If charges have been preferred but counsel has not yet been detailed or retained, the accused may be interrogated if he voluntarily waives his right to have counsel present.

The words ''after such request'' were added to subsection (c)(2) to elucidate that any statements made prior to a request for counsel are admissible, assuming, of course, that Article 31(b) rights were given. Without that phrase, the rule could be read to indicate that all statements made during the interview, even those made prior to the request, were inadmissible. This was not the intent of the committee and therefore the change was necessary.

The word ''shall'' was changed to ''will'' in subsections (a), (d), and (f) because the committee agreed with the approach of the Advisory Committee on Evidence Rules to minimize the use of ''shall'' because of the potential disparity in application and interpretation of whether the word is precatory or proscriptive.

In subsection (e)(1), the committee retained the requirement that the accused's waiver of the privilege against self-incrimination and the waiver of the right to counsel must be affirmative. This rule exceeds the minimal constitutional requirement. In *Berghuis* v. *Thompkins,* 130 S. Ct. 2250 (2010), the defendant remained mostly silent during a three-hour interrogation and never verbally stated that he wanted to invoke his rights to counsel and to remain silent. The Supreme Court held that the prosecution did not need to show that the defendant expressly waived his rights, and that an implicit waiver is sufficient. *Berghuis,* 130 S. Ct. at 2261. Despite the Supreme Court's holding, under this rule, in order for a waiver to be valid, the accused or suspect must actually take affirmative action to waive his rights. The committee recognizes that this rule places a greater burden on the government to show that the waiver is valid, and it was the intent of the committee to provide more protection to the accused or suspect than is required under the *Berghuis* holding.

In subsection (f)(2), the committee replaced the word ''abroad'' with ''outside of a state, district, commonwealth, territory, or possession of the United States'' in order to clearly define where the rule regarding foreign interrogations applies.

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(p) The analysis following M.R.E. 311 is amended to add the following language:

''*2012 Amendment:* The definition of ''unlawful'' was moved from subsection (c) to subsection (b) so that it immediately precedes the subsection in which the term is first used in the rule. Other subsections were moved so that they generally follow the order in which the issues described in the subsections arise at trial. The committee renumbered the subsections accordingly and titled each subsection to make it easier for the practitioner to find the relevant part of the rule. The committee also subsumed former subsection (d)(2)(c), addressing a motion to suppress derivative evidence, into subsection (d)(1) because a motion to suppress seized evidence must follow the same procedural requirements as a motion to suppress derivative evidence.

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(q) The analysis following M.R.E. 312 is amended to add the following language:

''*2012 Amendment:* Former subsection (b)(2) was moved to a discussion paragraph because it addresses the conduct of the examiner rather than the admissibility of evidence. *See supra,* General Provisions Analysis. Failure to comply with the requirement that a person of the same sex conduct the examination does not make the examination unlawful or the evidence inadmissible.

In subsection (c)(2)(a), the words ''clear indication'' were replaced with ''probable cause'' because the committee determined that ''clear indication'' was not well-understood by practitioners nor properly defined in case law, whereas ''probable cause'' is a recognized Fourth Amendment term. The use of the phrase ''clear indication'' likely came from the Supreme Court's holding in *Schmerber* v. *California,* 384 U.S. 757 (1966). In that case, the Court stated: ''In the absence of a clear indication that in fact such evidence will be found, these fundamental human interests require law officers to suffer the risk that such evidence may disappear unless there is an immediate search.'' *Schmerber,* 384 U.S. at 770. However, in *United States* v. *Montoya de Hernandez,* 473 U.S. 531 (1985), the Supreme Court clarified that it did not intend to create a separate Fourth Amendment standard when it used the words ''clear indication.'' *Montoya de Hernandez,* 473 U.S. at 540 (''[W]e think that the words in *Schmerber* were used to indicate the necessity for particularized suspicion that the evidence sought might be found within the body of the individual, rather than as enunciating still a third Fourth Amendment threshold between ''reasonable suspicion'' and ''probable cause''). The committee decided that the appropriate standard for a search under subsection (c)(2)(a) is probable cause. The committee made this decision with the understanding that doing so raises the level of suspicion required to perform a search under this subsection beyond that which was required in previous versions of this rule. The same reasoning applies to the change in subsection (d), where the committee also replaced the words ''clear indication'' with ''probable cause.'' This decision is consistent with the Court of Military Appeals' opinion in *United States v. Bickel,* 30 M.J. 277, 279 (C.M.A. 1990) (''We have no doubt as to the constitutionality of such searches and seizures based on probable cause'').

In subsection (d), the committee replaced the term ''involuntary'' with ''nonconsensual'' for the sake of consistency and uniformity throughout the subsection. The committee did not intend to change the rule in any practical way by using ''nonconsensual'' in the place of ''involuntary.''

A discussion paragraph was added following subsection (e) to address a situation in which a person is compelled to ingest a substance in order to locate property within that person's body. This paragraph was previously found in subsection (e), and the committee removed it from the rule itself because it addresses conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis.

The committee added the last line of subsection (f) to conform the rule to CAAF's holding in *United States v. Stevenson,* 66 M.J. 15 (C.A.A.F. 2008). In *Stevenson,* the court held that any additional intrusion, beyond what is necessary for medical treatment, is a search within the meaning of the Fourth Amendment. *Id.* at 18 (''The Supreme Court has not adopted a *de minimis* exception to the Fourth Amendment's warrant requirement''). The committee moved the first line of former subsection (f) to a discussion paragraph because it addresses conduct rather than the admissibility of evidence, and is therefore more appropriately addressed in a discussion paragraph. *See supra,* General Provisions Analysis.

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(r) The analysis following M.R.E. 313 is amended to add the following language:

''*2012 Amendment:* The definition of ''inventory'' was added to subsection (c) to further distinguish inventories from inspections. The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(s) The analysis following M.R.E. 314 is amended to add the following language:

''*2012 Amendment:* Language was added to subsection (a) to elucidate that the rules as written afford at least the minimal amount of protection required under the Constitution as applied to servicemembers. If new case law is developed after the publication of these rules which raises the minimal constitutional standards for the admissibility of evidence, that standard will apply to evidence admissibility, rather than the standard established under these rules.

In subsection (c), the committee intentionally limited the ability of a

commander to search persons or property upon entry or exit from the installation alone, rather than anywhere on the installation, despite the indication of some courts in dicta that security personnel can search a personally owned vehicle anywhere on a military installation based on no suspicion at all. *See, e.g., United States v. Rogers,* 549 F.2d 490, 493 (8th Cir. 1973). Allowing suspicionless searches anywhere on a military installation too drastically narrows an individual's privacy interest. Although individuals certainly have a diminished expectation of privacy when they are on a military installation, they do not forgo their privacy interest completely.

The committee added a discussion section below subsection (c) to address searches conducted contrary to a treaty or agreement. That material was previously located in subsection (c) and was moved to the discussion because it addresses conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis.

Although not explicitly stated in subsection (e)(2), the committee intends that the Supreme Court's holding in *Georgia v. Randolph* apply to this subsection. 547 U.S. 103 (2006) (holding that a warrantless search was unreasonable if a physically present co-tenant expressly refused to give consent to search, even if another co-tenant had given consent).

In subsection (f)(2), the phrase ''reasonably believed'' was changed to ''reasonably suspected'' to align with recent case law and to alleviate any confusion that ''reasonably believed'' established a higher level of suspicion required to conduct a stop-and-frisk than required by the Supreme Court in *Terry v. Ohio,* 392 U.S. 1 (1968). The ''reasonably suspected'' standard conforms to the language of the Supreme Court in *Arizona* v. *Johnson,* 555 U.S. 323, 328 (2009), in which the Court stated: ''To justify a patdown of the driver or a passenger during a traffic stop, however, just as in the case of a pedestrian reasonably suspected of criminal activity, the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous.'' The committee intends that this standard, and no higher, be required before an individual can be stopped and frisked under this subsection. Additionally, the committee added a discussion paragraph following this subsection to further expound on the nature and scope of the search, based on case law. *See, e.g., Terry,* 392 U.S. at 30–31; *Pennsylvania* v. *Mimms,* 434 U.S. 106 (1977).

In subsection (f)(3), the committee changed the phrase ''reasonable belief'' to ''reasonable suspicion'' for the same reasons discussed above. The committee added the discussion section to provide more guidance on the nature and scope of the search, based on case law. *See, e.g., Michigan* v. *Long,* 463 U.S. 1032, 1049 (1983) (''the search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on 'specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant' the officers in believing that the suspect is dangerous and the suspect may gain immediate control of weapons''); *Pennsylvania v. Mimms,* 434 U.S. 106 (1977) (there was no Fourth Amendment violation when the driver was ordered out of the car after a valid traffic stop but without any suspicion that he was armed and dangerous because ''what is at most a mere inconvenience cannot prevail when balanced against legitimate concerns for the officer's safety''); *Maryland v. Wilson,* 519 U.S. 408 (1997) (extending the holding in *Mimms* to passengers as well as drivers).

The committee moved the language from former subsection (g)(2), describing the search of an automobile incident to a lawful arrest of an occupant, to the discussion paragraph immediately following the subsection because it addresses conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis. The discussion section is based on the Supreme Court's holding in *Arizona* v. *Gant,* 556 U.S. 332 (2009) (''Police may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest'').

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(t) The analysis following M.R.E. 315 is amended to add the following language:

''*2012 Amendment:* Former subsection (h) was moved so that it immediately follows subsection (a). It was changed to a discussion paragraph because it generally applies to the entire rule, rather than any particular subsection and also because it addresses conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis.

In subsection (b), the committee changed the term ''authorization to search'' to ''search authorization'' to align it with the term more commonly used by practitioners and law enforcement. The committee moved former subsection (c)(4) to a discussion paragraph because it addresses conduct rather than the admissibility of evidence. *See Supra,* General Provisions Analysis.

The committee moved the second sentence in former subsection (d)(2) to subsection (d) to elucidate that its content applies to both commanders under subsection (d)(1) and military judges or magistrates under subsection (d)(2). The committee did so in reliance on CAAF's decision in *United States* v. *Huntzinger,* 69 M.J. 1 (C.A.A.F. 2010), which held that a commander is not *per se* disqualified from authorizing a search under this rule even if he has participated in investigative activities in furtherance of his command responsibilities.

The committee moved former subsection (h)(4), addressing the execution of search warrants, to subsection (e), now entitled ''Who May Search,'' so that it was co-located with the subsection discussing the execution of search authorizations.

In subsection (f)(2), the word ''shall'' was changed to ''will'' because the committee agreed with the approach of the Advisory Committee on Evidence Rules to minimize the use of words such as ''shall'' and ''should'' because of the potential disparity in application and interpretation of whether the word is precatory or proscriptive. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.

Subsection (g) was revised to include a definition of exigency rather than to provide examples that may not encompass the wide range of situations where exigency might apply. The definition is derived from Supreme Court jurisprudence. *See Kentucky* v. *King,* 131 S. Ct. 1849 (2011). The committee retained the language concerning military operational necessity as an exigent circumstance because this rule may be applied to a unique military context where it might be difficult to communicate with a person authorized to issue a search authorization. *See, e.g., United States* v. *Rivera,* 10 M.J. 55 (C.M.A. 1980) (noting that exigency might exist because of difficulties in communicating with an authorizing official, although the facts of that case did not support such a conclusion). The committee intends that nothing in this rule would prohibit a law enforcement officer from entering a private residence without a warrant to protect the individuals inside from harm, as that is not a search under the Fourth Amendment. *See, e.g., Brigham City* v. *Stuart,* 547 U.S. 398 (2006) (holding that, regardless of their subjective motives, police officers were justified in entering a home without a warrant, under exigent circumstances exception to warrant requirement, as they had an objectively reasonable basis for believing that an occupant was seriously injured or imminently threatened with injury).

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(u) The analysis following M.R.E. 316 is amended to add the following language:

''*2012 Amendment:* In subsection (a), the committee added the word ''reasonable'' to align the rule with the language found in the Fourth Amendment of the U.S. Constitution and Mil. R. Evid. 314 and 315.

In subsection (c)(5)(C), the committee intends that the term ''reasonable fashion'' include all action by law enforcement that the Supreme Court has established as lawful in its plain view doctrine. *See, e.g., Arizona* v. *Hicks,* 480 U.S. 321, 324–25 (1987) (holding that there was no search when an officer merely recorded serial numbers that he saw on a piece of stereo equipment, but that the officer did conduct a search when he moved the equipment to access serial numbers on the bottom of the turntable); *United States* v. *Lee,* 274 U.S. 559, 563 (1927) (use of a searchlight does not constitute a Fourth Amendment violation); it is not the committee's intent to establish a stricter definition of plain view than that required by

the Constitution, as interpreted by the Supreme Court. An officer may seize the item only if his conduct satisfies the three-part test prescribed by the Supreme Court: (1) He does not violate the Fourth Amendment by arriving at the place where the evidence could be plainly viewed; (2) its incriminating character is ''readily apparent''; and (3) he has a lawful right of access to the object itself. *Horton* v. *California,* 496 U.S. 128, 136–37 (1990).

The committee also revised this rule for stylistic reasons and to ensure that it addressed admissibility rather than conduct. *See supra,* General Provisions Analysis. In doing so, the committee did not intend to change any result in any ruling on evidence admissibility.''

(v) The analysis following M.R.E. 317 is amended to add the following language:

''*2012 Amendment:* The committee moved former subsections (b) and (c)(3) to a discussion paragraph because they address conduct rather than the admissibility of evidence. *See supra,* General Provisions Analysis.

The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(w) The analysis following M.R.E. 318 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION IV—RELEVANCY AND ITS LIMITS

(x) The title of the analysis section of M.R.E. 401 is changed to ''Test for Relevant Evidence.''

(y) The analysis following M.R.E. 401 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(z) The title of the analysis section of M.R.E. 402 is changed to ''General Admissibility of Relevant Evidence.''

(aa) The analysis following M.R.E. 402 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(bb) The analysis following M.R.E. 403 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(cc) The title of the analysis section of M.R.E. 404 is changed to ''Character Evidence; Crime or Other Acts.''

(dd) The analysis following M.R.E. 404 is amended to add the following language:

''*2012 Amendment:* The word ''alleged'' was added to references to the victim throughout this rule. Stylistic changes were also made to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ee) The analysis following M.R.E. 405 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ff) The analysis following M.R.E. 406 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(gg) The analysis following M.R.E. 407 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(hh) The title of the analysis section of M.R.E. 408 is changed to ''Compromise Offers and Negotiations.''

(ii) The analysis following M.R.E. 408 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(jj) The title of the analysis section of M.R.E. 409 is changed to ''Offers to Pay Medical and Similar Expenses.''

(kk) The analysis following M.R.E. 409 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ll) The title of the analysis section of M.R.E. 410 is changed to ''Pleas, Plea Discussions, and Related Statements.''

(mm) The analysis following M.R.E. 410 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(nn) The analysis following M.R.E. 411 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(oo) The title of the analysis section of M.R.E. 412 is changed to ''Sex Offense Cases: The Victim's Sexual Behavior or Predisposition.''

(pp) The title of the analysis section of M.R.E. 413 is changed to ''Similar Crimes in Sexual Offense Cases.''

(qq) The analysis following M.R.E. 403 is amended to add the following language:

''*2012 Amendment:* The committee changed the time requirement in subsection (b) to align with the time requirements in Mil. R. Evid. 412 and the Federal Rules of Evidence. This change is also in conformity with military practice in which the military judge may accept pleas shortly after referral and sufficiently in advance of trial. Additionally, the committee revised subsection (d) to align with the Federal Rules of Evidence.

The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(rr) The title of the analysis section of M.R.E. 414 is changed to ''Similar Crimes in Child-Molestation Cases.''

(ss) The analysis following M.R.E. 414 is amended to add the following language:

''*2012 Amendment:* The committee changed the time requirement in subsection (b) to align with the time requirements in Mil. R. Evid. 412 and the Federal Rules of Evidence. This change is also in conformity with military practice in which the military judge may accept pleas shortly after referral and sufficiently in advance of trial. Additionally, the committee revised subsection (d) to align with the Federal Rules of Evidence.

The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION V—PRIVILEGES

(tt) The title of the analysis section of M.R.E. 501 is changed to ''Privilege in General.''

(uu) The analysis following M.R.E. 501 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(vv) The analysis following M.R.E. 502 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ww) The analysis following M.R.E. 503 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(xx) The analysis following M.R.E. 504 is amended to add the following language:

''*2012 Amendment:* Subsection (c)(2)(D) was added pursuant to Exec. Order No. 13593. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(yy) The analysis following M.R.E. 505 is amended to add the following language:

''*2012 Amendment:* The committee significantly restructured this rule to bring greater clarity and regularity to military practice. The changes focus primarily on expanding the military judge's explicit authority to conduct *ex parte* pretrial conferences in connection with classified information and detailing when the military judge is required to do so, limiting the disclosure of classified information per order of the military judge, specifically outlining the process by which the accused gains access to and may request disclosure of classified information, and the procedures for using classified material at trial. The changes

were intended to ensure that classified information is not needlessly disclosed while at the same time ensuring that the accused's right to a fair trial is maintained. Some of the language was adopted from the Military Commissions Rules of Evidence and the Classified Information Protection Act.''

(zz) The analysis following M.R.E. 506 is amended to add the following language:

''*2012 Amendment:* The committee significantly revised this rule to both bring greater clarity to it and also to align it with changes made to Mil. R. Evid. 505.''

(aaa) The analysis following M.R.E. 507 is amended to add the following language:

''*2012 Amendment:* The committee added subsection (b) to define terms that are used throughout the rule and added subsection (e)(1) to permit the military judge to hold an in camera review upon request by the prosecution. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(bbb) The analysis following M.R.E. 509 is amended to add the following language:

''*2012 Amendment:* The committee added the language ''courts-martial, military judges'' to this rule in light of CAAF's holding in *United States* v. *Matthews,* 68 M.J. 29 (C.A.A.F. 2009). In that case, CAAF held that this rule as it was previously written created an implied privilege that protected the deliberative process of a military judge from disclosure and that testimony that revealed the deliberative thought process of the military judge is inadmissible. *Matthews,* 68 M.J. at 38–43. The changes simply express what the court found had previously been implied.''

(ccc) The analysis following M.R.E. 511 is amended to add the following language:

''*2012 Amendment:* Titles were added to the subsections of this rule for clarity and ease of use.''

(ddd) The analysis following M.R.E. 513 is amended to add the following language:

''*2012 Amendment:* In Exec. Order No. 13593, the President removed communications about spouse abuse as an exception to the spousal privilege by deleting the words ''spouse abuse'' and ''the person of the other spouse or'' from Mil. R. Evid. 513(d)(2), thus expanding the overall scope of the privilege. In removing the spouse abuse exception to Mil. R. Evid. 513, the privilege is now consistent with Mil. R. Evid. 514 in that spouse victim communications to a provider who qualifies as both a psychotherapist for purposes of Mil. R. Evid. 513 and as a victim advocate for purposes of Mil. R. Evid. 514 are covered.

In subsection (e)(3), the committee changed the language to further expand the military judge's authority and discretion to conduct in camera reviews. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(eee) The analysis following M.R.E. 514 is amended to add the following language:

''*2012 Amendment:* Like the psychotherapist-patient privilege created by Mil. R. Evid. 513, Mil. R. Evid. 514 establishes a victim advocate-victim privilege for investigations or proceedings authorized under the Uniform Code of Military Justice. Implemented as another approach to improving the military's overall effectiveness in addressing the crime of sexual assault, facilitating candor between victims and victim advocates, and mitigating the impact of the court-martial process on victims, the rule specifically emerged in response to concerns raised by members of Congress, community groups and *The Defense Task Force on Sexual Assault in the Military Services* (DTFSAMS). In its 2009 report, DTFSAMS noted: 35 states had a privilege for communications between victim advocates and victims of sexual assault; victims did not believe they could communicate confidentially with medical and psychological support services provided by DoD; there was interference with the victim-victim advocate relationship and continuing victim advocate services when the victim advocate was identified as a potential witness in a court-martial; and service members reported being ''re-victimized'' when their prior statements to victim advocates were used to cross-examine them in court-martial proceedings. DTFSAMS recommended that Congress ''enact a comprehensive military justice privilege for communications between a Victim Advocate and a victim of sexual assault.'' Both the DoD Joint Service Committee on Military Justice and Congress began considering a privilege. The committee chose to model a proposed Mil. R. Evid. 514 on Mil. R. Evid. 513, including its various exceptions, in an effort to balance the privacy of the victim's communications with a victim advocate against the accused's legitimate needs. Differing proposals for a victim advocate privilege were suggested as part of the FY2011 National Defense Authorization Act (NDAA), but were not enacted. A victim advocate privilege passed the House as part of the FY2012 NDAA, while the Senate version would have required the President to issue a Military Rule of Evidence providing a privilege. Congress removed both provisions because Mil. R. Evid. 514 was pending the President's signature and this rule accomplished the objective of ensuring privileged communications for sexual assault victims.

Under subsection (a), General Rule, the words ''under the Uniform Code of Military Justice'' in Mil. R. Evid. 514 mean that the privilege only applies to misconduct situations constituting a case that could result in UCMJ proceedings. It does not apply in situations in which the offender is not subject to UCMJ jurisdiction. There is no intent to apply Mil. R. Evid. 514 in any proceeding other than those authorized under the UCMJ. However, service regulations dictate how the privilege is applied to non-UCMJ proceedings. Furthermore, this rule only applies to communications between a victim advocate and the victim of a sexual or violent offense.

Under subsection (b), Definitions, the committee intended the definition of ''victim advocate'' to include, but not be limited to, personnel performing victim advocate duties within the DoD Sexual Assault Prevention and Response Office (such as a Sexual Assault Response Coordinator), and the DoD Family Advocacy Program (such as a domestic abuse victim advocate). To determine whether an official's duties encompass victim advocate responsibilities, DoD and military service regulations should be consulted. A victim liaison appointed pursuant to the Victim and Witness Assistance Program is not a ''victim advocate'' for purposes of this rule, nor are personnel working within an Equal Opportunity or Inspector General office. For purposes of this rule, the committee intended ''violent offense'' to mean an actual or attempted murder, manslaughter, rape, sexual assault, aggravated assault, robbery, assault consummated by a battery, or similar offense. A simple assault may be a violent offense where the violence has been physically attempted or menaced. A mere threatening in words is not a violent offense. The committee recognizes that this rule will be applicable in situations where there is a factual dispute as to whether a sexual or violent offense occurred and whether a person actually suffered direct physical or emotional harm from such an offense. The fact that such findings have not been judicially established shall not prevent application of this rule to alleged victims reasonably intended to be covered by this rule.

Under subsection (d), *Exceptions,* the exceptions to Mil. R. Evid. 514 are similar to the exceptions found in Mil. R. Evid. 513, and are intended to be applied in the same manner. Mil. R. Evid. 514 does not include comparable exceptions found within Mil. R. Evid. 513(d)(2) and 513(d)(7). In drafting the ''constitutionally required'' exception, the committee intended that communication covered by the privilege would be released only in the narrow circumstances where the accused could show harm of constitutional magnitude if such communication was not disclosed. In practice, this relatively high standard of release is not intended to invite a fishing expedition for possible statements made by the victim, nor is it intended to be an exception that effectively renders the privilege meaningless. If a military judge finds that an exception to this privilege applies, special care should be taken to narrowly tailor the release of privileged communications to only those statements which are relevant and whose probative value outweighs unfair prejudice. The fact that otherwise privileged communications are admissible pursuant to an exception of Mil. R. Evid. 514 does not prohibit a military judge from imposing reasonable limitations on cross-examination. *See Delaware* v. *Van Arsdall,* 475 U.S. 673, 679 (1986); *United States* v. *Gaddis,* 70 M.J. 248, 256 (C.A.A.F. 2011); *United States* v. *Ellerbrock,* 70 M.J. 314 (C.A.A.F. 2011).''

SECTION VI—WITNESSES

(fff) The title of the analysis section of M.R.E. 601 is changed to ''Competency to Testify in General.''

(ggg) The analysis following M.R.E. 601 is amended to add the following language:

''2012 Amendment: The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(hhh) The title of the analysis section of M.R.E. 602 is changed to ''Need for Personal Knowledge.''

(iii) The analysis following M.R.E. 602 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(jjj) The title of the analysis section of M.R.E. 603 is changed to ''Oath or Affirmation to Testify Truthfully.''

(kkk) The analysis following M.R.E. 603 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(lll) The analysis following M.R.E. 604 is amended to add the following language:

''*2012 Amendment:* The committee amended this rule to match the Federal Rules of Evidence. However, the word ''qualified'' is undefined both in these rules and in the Federal Rules. R.C.M. 502(e)(1) states that the Secretary concerned may prescribe qualifications for interpreters. Practitioners should therefore refer to the Secretary's guidance to determine if a translator is qualified under this rule. The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(mmm) The title of the analysis section of M.R.E. 605 is changed to ''Military Judge's Competency as a Witness.''

(nnn) The analysis following M.R.E. 605 is amended to add the following language:

''*2012 Amendment:* The committee revised subsection (a) for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ooo) The title of the analysis section of M.R.E. 606 is changed to ''Member's Competency as a Witness.''

(ppp) The analysis following M.R.E. 606 is amended to add the following language:

''*2012 Amendment:* The committee added subsection (c) to this rule to align it with the Federal Rules of Evidence. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(qqq) The title of the analysis section of M.R.E. 607 is changed to ''Who May Impeach a Witness.''

(rrr) The analysis following M.R.E. 607 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(sss) The title of the analysis section of M.R.E. 608 is changed to ''A Witness's Character for Truthfulness or Untruthfulness.''

(ttt) The analysis following M.R.E. 608 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(uuu) The title of the analysis section of M.R.E. 609 is changed to ''Impeachment by Evidence of a Criminal Conviction.''

(vvv) The analysis following M.R.E. 609 is amended to add the following language:

''*2012 Amendment:* Pursuant to Exec. Order No. 13593, the committee amended subsections (a), (b)(2), and (c)(1) to conform the rule with the Federal Rules of Evidence. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(www) The analysis following M.R.E. 610 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(xxx) The title of the analysis section of M.R.E. 611 is changed to ''Mode and Order of Examining Witnesses and Presenting Evidence.''

(yyy) The analysis following M.R.E. 611 is amended to add the following language:

''*2012 Amendment:* The committee amended subsection (d)(3) to conform with the United States Supreme Court's holding in *Maryland* v. *Craig,* 497 U.S. 836 (1990) and CAAF's holding in *United States* v. *Pack,* 65 M.J. 381 (C.A.A.F. 2007). In *Craig,* the Supreme Court held that, in order for a child witness to be permitted to testify via closed-circuit one-way video, three factors must be met: (1) The trial court must determine that it is necessary ''to protect the welfare of the particular child witness''; (2) the trial court must find ''that the child witness would be traumatized, not by the courtroom generally, but by the presence of the defendant''; and (3) the trial court must find ''that the emotional distress suffered by the child witness in the presence of the defendant is more than *de minimis.'' Craig,* 497 at 855–56. In *Pack,* CAAF held that, despite the Supreme Court's decision in *Crawford* v. *Washington,* the Supreme Court did not implicitly overrule *Craig* and that all three factors must be present in order to permit a child witness to testify remotely. *Pack,* 65 M.J. at 384–85. This rule as previously written contradicted these cases because it stated that any one of four factors, rather than all three of those identified in *Craig,* would be sufficient to allow a child to testify remotely. The committee made the changes to ensure that this subsection aligned with the relevant case law.

The language for subsection (5) was taken from 18 U.S.C. § 3509, which covers child victims' and child witnesses' rights. There is no comparable Federal Rule of Evidence but the committee believes that a military judge may find that an Article 39a session outside the presence of the accused is necessary to make a decision regarding remote testimony. The committee intended to limit the number of people present at the Article 39a session in order to make the child feel more at ease, which is why the committee included the language limiting those present to ''a representative'' of the defense and prosecution, rather than multiple representatives.

The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(zzz) The title of the analysis section of M.R.E. 612 is changed to ''Writing Used to Refresh a Witness's Memory.''

(aaaa) The analysis following M.R.E. 612 is amended to add the following language:

''*2012 Amendment:* The committee revised subsection (b) of this rule to align with the Federal Rules of Evidence. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(bbbb) The title of the analysis section of M.R.E. 613 is changed to ''Witness's Prior Statement.''

(cccc) The analysis following M.R.E. 613 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(dddd) The title of the analysis section of M.R.E. 614 is changed to ''Court-Martial's Calling or Examining a Witness.''

(eeee) The analysis following M.R.E. 614 is amended to add the following language:

''*2012 Amendment:* In subsection (a), the committee substituted the word ''relevant'' for ''appropriate'' because relevance is the most accurate threshold for admissibility throughout these rules. Additionally, the committee added the phrase ''Following the opportunity for review by both parties'' to subsection (b) to align it with the standard military practice to allow the counsel for both sides to review a question posed by the members, and to voice objections before the military judge rules on the propriety of the question. The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ffff) The title of the analysis section of M.R.E. 615 is changed to ''Excluding Witnesses.''

(gggg) The analysis following M.R.E. 615 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION VII—OPINIONS AND EXPERT TESTIMONY

(hhhh) The analysis following M.R.E. 701 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(hhhh) The title of the analysis section of M.R.E. 702 is changed to ''Testimony by Expert Witnesses.''

(iiii) The analysis following M.R.E. 702 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(kkkk) The title of the analysis section of M.R.E. 703 is changed to ''Bases of an Expert's Opinion of Testimony.''

(llll) The analysis following M.R.E. 703 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule to align with the Federal Rules of Evidence but in doing so the committee did not intend to change any result in any ruling on evidence admissibility.''

(mmmm) The analysis following M.R.E. 704 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(nnnn) The title of the analysis section of M.R.E. 705 is changed to ''Disclosing the Facts or Data Underlying an Expert's Opinion.''

(oooo) The analysis following M.R.E. 705 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(pppp) The title of the analysis section of M.R.E. 706 is changed to ''Court-Appointed Expert Witnesses.''

(qqqq) The analysis following M.R.E. 706 is amended to add the following language:

''*2012 Amendment:* The committee removed subsection (b) because the committee believes that the authority of the military judge to tell members that he or she has called an expert witness is implicit in his or her authority to obtain the expert, and therefore the language was unnecessary. Although the language has been removed, the committee intends that the military judge may, in the exercise of discretion, notify the members that he or she called the expert. The committee also revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(rrrr) The analysis following M.R.E. 707 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION VIII—HEARSAY

(ssss) The title of the analysis section to M.R.E. 801 is changed to ''Definitions that Apply to this Section; Exclusions from Hearsay.''

(tttt) The analysis following M.R.E. 801 is amended to add the following language:

''*2012 Amendment:* The committee changed the title of subsection (2) from ''Admission by party-opponent'' to ''An Opposing Party's Statement'' to conform to the Federal Rules of Evidence. The term ''admission'' is misleading because a statement falling under this exception need not be an admission and also need not be against the party's interest when spoken. In making this change, the committee did not intend to change any result in any ruling on evidence admissibility.''

(uuuu) The title of the analysis section of M.R.E. 802 is changed to ''The Rule Against Hearsay.''

(vvvv) The analysis following M.R.E. 802 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(wwww) The title of the analysis section of M.R.E. 803 is changed to ''Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant is Available as a Witness.''

(xxxx) The analysis following M.R.E. 803 is amended to add the following language:

''*2012 Amendment:* The committee removed subsection (24), which stated: ''Other Exceptions: [Transferred to M.R.E. 807]'' because practitioners are generally aware that Mil. R. Evid. 807 covers statements not specifically covered in this rule, and therefore the subsection was unnecessary. The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(yyyy) The title of the analysis section of M.R.E. 804 is changed to ''Exceptions to the Rule Against Hearsay—When the Declarant is Unavailable as a Witness.''

(zzzz) The analysis following M.R.E. 804 is amended to add the following language:

''*2012 Amendment:* In subsection (b)(3)(B), the committee intentionally left undisturbed the phrase ''and is offered to exculpate the accused,'' despite the fact that it is not included in the current or former versions of the Federal Rules of Evidence. Unlike in Mil. R. Evid. 803, the committee did not remove subsection (5), which directs practitioners to the residual exception in Mil. R. Evid. 807, because doing so would cause the remaining subsections to be renumbered. Although subsection (5) is not necessary, renumbering the subsections within this rule would have a detrimental effect on legal research and also would lead to inconsistencies in numbering between these rules and the Federal Rules. The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(aaaaa) The analysis following M.R.E. 805 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(bbbbb) The title of the analysis section of M.R.E. 806 is changed to ''Attacking and Supporting the Declarant's Credibility.''

(ccccc) The analysis following M.R.E. 806 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ddddd) The analysis following M.R.E. 807 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION IX—AUTHENTICATION AND IDENTIFICATION

(eeeee) The title of the analysis section of M.R.E. 901 is changed to ''Authenticating or Identifying Evidence.''

(fffff) The analysis following M.R.E. 901 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule to align with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ggggg) The title of the analysis section M.R.E. 902 is changed to ''Evidence that is Self-Authenticating.''

(hhhhh) The analysis following M.R.E. 902 is amended to add the following language:

''*2012 Amendment:* The committee added language to subsection (11) to permit the military judge to admit non-noticed documents even after the trial has commenced if the offering party shows good cause to do so. The committee also revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(iiiii) The title of the analysis section of M.R.E. 903 is changed to ''Subscribing Witness's Testimony.''

(jjjjj) The analysis following M.R.E. 903 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION X—CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

(kkkkk) The title of the analysis section of M.R.E. 1001 is changed to ''Definitions that Apply to this Section.''

(lllll) The analysis following M.R.E. 1001 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule to align with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(mmmmm) The analysis following M.R.E. 1002 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(nnnnn) The analysis following M.R.E. 1003 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ooooo) The analysis following M.R.E. 1004 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ppppp) The title of the analysis section of M.R.E. 1005 is changed to ''Copies of Public Records to Prove Content.''

(qqqqq) The analysis following M.R.E. 1005 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(rrrrr) The title of the analysis section of M.R.E. 1006 is changed to ''Summaries to Prove Content.''

(sssss) The analysis following M.R.E. 1006 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(ttttt) The title of the analysis section of M.R.E. 1007 is changed to ''Testimony or Statement of a Party to Prove Content.''

(uuuuu) The analysis following M.R.E. 1007 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(vvvvv) The analysis following M.R.E. 1008 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

SECTION XI—MISCELLANEOUS RULES

(wwwww) The analysis following M.R.E. 1101 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule to align with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(xxxxx) The analysis following M.R.E. 1102 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

(yyyyy) The analysis following M.R.E. 1103 is amended to add the following language:

''*2012 Amendment:* The committee revised this rule for stylistic reasons and to align it with the Federal Rules of Evidence but in doing so did not intend to change any result in any ruling on evidence admissibility.''

Changes to Appendix 23, Analysis of the Punitive Articles

(a) Paragraph 3, Article 79, Lesser included offenses, subparagraph b(4) *Specific lesser included offenses,* delete the paragraphs beginning with the words ''2012 Amendment'' and ending with ''(''C.A.A.F. 2008).'' and insert in their place:

''*2013 Amendment.* See analysis in paragraph 3b(1) above. Lesser included offenses (LIO) listings were removed from each punitive article in paragraphs 1–113 (except paragraphs 1 and 3), Part IV, and were moved to a new Appendix 12A. The LIO listings are determined based on the elements of the greater offense, but are not binding. The President does not have the authority to create LIOs by simply listing them in the Manual. *United States* v. *Jones,* 68 M.J. 465, 471–12 (C.A.A.F. 2010). Therefore, practitioners should use Appendix 12A only as a guide. To determine if an offense is lesser included, the elements test must be used. *Id.* at 470. The offenses are not required to possess identical statutory language; rather, the court uses normal principles of statutory construction to determine the meaning of each element. *See Jones,* 68 M.J. at 470–73; *United States* v. *Oatney,* 45 M.J. 185 (C.A.A.F. 1996); and *Schmuck* v. *United States,* 489 U.S. 705 (1989).

Article 134 offenses generally will not be lesser included offenses of enumerated offenses in Articles 80–133. *See United States* v. *Girouard,* 70 M.J. 5 (C.A.A.F. 2011); *United States* v. *McMurrin,* 70 M.J. 15 (C.A.A.F. 2011). Article 134 specifications must contain the ''terminal element.'' *See* paragraphs 60b and 60c(6)(a) in Part IV. *See also United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011); *United States* v. *Ballan,* 71 M.J. 28 (C.A.A.F. 2012); R.C.M. 307(c)(3).''

(b) Paragraph 43, Article 118, Murder, subparagraph a. is amended as follows:

''*2012 Amendment:* This statute was modified pursuant to the National Defense Authorization Act for Fiscal Year 2012, P.L. 112–81, 31 December 2011, to conform to renamed sexual assault offenses in Article 120 and Article 120b. The changes took effect on 28 June 2012.''

(c) Paragraph 45, Article 120, Rape and sexual assault generally, the first paragraph of the analysis beginning with the word ''2012'' and ending with the number ''28'' is amended as follows:

''*2012 Amendment:* This paragraph was substantially revised by section 541 of the National Defense Authorization Act for Fiscal Year 2012 [FY12 NDAA], P.L. 112–81, 31 December 2011. Amendments contained in this section took effect on 28 June 2012. Sec. 541(f), Pub. L. 112–81. On 28 June 2012, a modified paragraph 45, ''Rape and sexual assault generally,'' replaced the 2007 version of paragraph 45, ''Rape, sexual assault, and other sexual misconduct.'' The analysis related to prior versions of Article 120 is located as follows: for offenses committed on or before 30 September 2007, *see* Appendix 27; for offenses committed during the period 1 October 2007 through 27 June 2012, *see* Appendix 28.''

(d) Paragraph 45, Article 120, Rape and sexual assault generally, is amended as follows:

Subparagraphs b, c, d, e, and f are deleted.

(e) Paragraph 45c, Article 120c, Other sexual misconduct, the first paragraph of the analysis beginning with the word ''2012'' and ending with the number ''registration'' is amended as follows:

''*2012 Amendment:* This paragraph is new and is based on section 541 of the National Defense Authorization Act for Fiscal Year 2012 [FY12 NDAA], Pub. L. 112–81, 31 December 2011. This section took effect on 28 June 2012. Sec. 541(f), Pub. L. 112–81. The new Article 120c. encompasses offenses contained in the 2007 version of Article 120(k), Article 120(l), and Article 120(n), and is intended to criminalize non-consensual sexual misconduct that ordinarily subjects an accused to sex offender registration.''

(f) Paragraph 45c, Article 120c, Other sexual misconduct, is amended as follows:

Subparagraphs b, c, d, e, and f are deleted.

(g) Paragraph 51, Article 125, Sodomy, subparagraph c. is amended as follows:

''c. *Explanation.* This paragraph is based on paragraph 204 of MCM, 1969 (Rev.). Fellatio and cunnilingus are within the scope of Article 125. *See United States* v. *Harris,* 8 M.J. 52 (C.M.A. 1979); *United States* v. *Scoby,* 5 M.J. 160 (C.M.A. 1978). In 2003, the Supreme Court recognized a constitutional liberty interest under the Due Process Clause to engage in consensual, private, adult sexual behavior. *Lawrence* v. *Texas,* 539 U.S. 558 (2003). The Court assigned that liberty interest to those adults ''with full and mutual consent from each other'' and did not extend that interest to cases involving minors, public conduct, prostitution, persons who might be injured or coerced, and persons who are situated in relationships where consent might not easily be refused. *Id.* at 578. In essence, *Lawrence* endorsed the notion that the Fifth Amendment liberty interest embraces the autonomy of individual choices involving intimate and personal decisions that do not infringe on the bodily integrity of another. *Id.* However, the Court made clear that not all sodomy was protected under an individual's substantive due process rights. *Id.*

Following the Supreme Court's decision, the Court of Appeals for the Armed Forces (CAAF) acknowledged the application of *Lawrence* in the military but with noted exceptions. *United States* v. *Marcum,* 60 M.J. 198 (C.A.A.F. 2004). In *Marcum,* the Court adopted a tripartite framework for addressing *Lawrence* issues within the military context by distinguishing between conduct constitutionally protected and conduct that may be criminal under Article 125 of the UCMJ. *Id.* Whether a conviction under Article 125 is constitutional as applied would be analyzed by asking: ''First, was the conduct that the accused was found guilty of committing of a nature to bring it within the liberty interest identified by the Supreme Court? Second, did the conduct encompass any behavior or factors identified by the Supreme Court as outside the analysis in *Lawrence?* Third, are there additional factors relevant solely in the military environment that affect the nature and reach of the *Lawrence* liberty interest?'' *Id.* at 206–07 (internal citations omitted).

In *United States* v. *Hartman,* 69 M.J. 467, 468 (C.A.A.F. 2011), CAAF explained that when considering charges under Article 125, the ''distinction between what is permitted and what is prohibited constitutes a matter of 'critical significance.' '' In the context of guilty pleas, a provident plea to Article 125 must include an ''appropriate discussion and acknowledgment on the part of the accused

of the distinction between what is permitted and what is prohibited behavior.'' *Id.* As pointed out in the holding, CAAF imposed this ''critical distinction'' colloquy during a plea ''[w]hen a charge against a servicemember *may implicate* both criminal and constitutionally protected conduct.'' *Id.* (emphasis added).''

(h) Paragraph 51, Article 125, Sodomy, subparagraph d. is amended as follows:

''d. *Lesser included offenses. 1994 Amendment.* One of the objectives of the Sexual Abuse Act of 1986, 18 U.S.C. 2241–2245, was to define sexual abuse in gender-neutral terms. Since the scope of Article 125, UCMJ, accommodates those forms of sexual abuse other than the rape provided for in Article 120, UCMJ, the maximum punishments permitted under Article 125 were amended to bring them more in line with Article 120 and the Act, thus providing sanctions that are generally equivalent regardless of the victim's gender. Subparagraph e(1) was amended by increasing the maximum period of confinement from 20 years to life. Subparagraph e(2) was amended by creating two distinct categories of sodomy involving a child, one involving children who have attained the age of 12 but are not yet 16, and the other involving children under the age of 12. The latter is now designated as subparagraph e(3). The punishment for the former category remains the same as it was for the original category of children under the age of 16. This amendment, however, increases the maximum punishment to life when the victim is under the age of 12 years.

2007 Amendment: The former Paragraph 87(1)(b), Article 134 Indecent Acts or Liberties with a Child, has been replaced in its entirety by paragraph 45. The former Paragraph 63(2)(c), Article 134 Assault—Indecent, has been replaced in its entirety by paragraph 45. The former Paragraph 90(3)(a), Article 134 Indecent Acts with Another, has been replaced in its entirety by paragraph 45. Lesser included offenses under Article 120 should be considered depending on the factual circumstances in each case.

2013 Amendment: Section 541 of the National Defense Authorization Act for Fiscal Year 2012, P.L. 112–81, 31 December 2011, supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct'', in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child'', and paragraph 45c., ''Other sexual misconduct.'' These changes affect lesser included offenses (LIOs), but LIOs should still be determined based on the elements of each offense. *See* Article 79 and Appendix 12A.''

(i) Paragraph 60, Article 134, General Article, subparagraph (6)(a) is amended as follows:

''*2013 Amendment.* In 2012 the Manual was amended to address the changes in practice resulting from the holding in *United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011). In the 2013 Executive Order, the President required that the terminal element be expressly alleged in every Article 134 specification.

The President ended the historical practice of inferring the terminal element in Article 134 specifications, s*ee, e.g. United States* v. *Mayo,* 12 M.J. 286 (C.M.A. 1983), and required the terminal element be expressly alleged to provide sufficient notice to the accused and for uniformity and consistency in practice. *See Fosler,* 70 M.J. at 227–28; *Schmuck* v. *United States,* 489 U.S. 705 (1989). In general, when drafting specifications, the Government must allege every element, either expressly or by necessary implication. *See* R.C.M. 307(c)(3). However, in Article 134 specifications, the accused must be given notice as to which clause or clauses he must defend against; therefore, the terminal element may not be inferred.

Although a single terminal element is required, there are three theories of liability that would satisfy the terminal element: a disorder or neglect to the prejudice of good order and discipline (under clause 1); conduct of a nature to bring discredit upon the armed forces (under clause 2); or a crime or offense not capital (under clause 3). The three clauses are ''distinct and separate.'' *Fosler,* 70 M.J. at 232. A single theory may be alleged, or clauses 1 and 2 may be combined. While it is not prohibited to combine clauses 1, 2, and 3 in one specification, such a combination is not practical.

When charging both clauses 1 and 2, practitioners are encouraged to use the word ''and'' to separate the theories in one specification, rather than using the word ''or'' to separate the theories. Practitioners may also allege two separate specifications. At findings, the Trial Counsel or Military Judge must make certain that the record is clear as to whether clause 1, clause 2, or both clauses were proven beyond a reasonable doubt. Using the word ''and'' to separate clause 1 and 2 in the terminal element allows the trier of fact to except the unproven clause from the specification. This approach forces intellectual rigor in analyzing each clause as distinct and separate. Nothing in this analysis should be read to suggest that a specification connecting the two theories with the disjunctive ''or'' necessarily fails to give the accused reasonable notice of the charge against him. *See United States* v. *Rauscher,* 71 M.J. 225, 226 (C.A.A.F. 2012) (*per curiam*) (citing *Russell* v. *United States,* 369 U.S. 749, 765 (1962)).''

(j) Paragraph 60, Article 134, General Article, subparagraph (6)(b), delete the paragraph beginning with the words ''2012 Amendment'' and ending ''above.'', and insert in its place:

''*2013 Amendment.* New discussion was added in 2012 to address *United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011). In 2013 that analysis was removed after paragraph 60 was amended by Executive Order. *See* analysis under subparagraph (6)(a) above.''

(k) Paragraph 60, Article 134, Adultery, subparagraph (c)(2) is amended as follows:

''(2) When determining whether adulterous acts constitute the offense of adultery under Article 134, commanders should consider the listed factors. The offense of adultery is intended to prohibit extramarital sexual behavior that directly affects the discipline of the armed forces, respect for the chain of command, or maintenance of unit cohesion. The intent of this provision is to limit the crime of adultery to those situations where the negative impact to the unit is real rather than theorized. This provision is not intended, nor should it be inferred, to criminalize sexual practices between two adults with full and mutual consent from each other, but rather, to punish the collateral negative effects of extramarital sexual activity when there exists a genuine nexus between that activity and the efficiency and effectiveness of the armed forces. *c.f. United States* v. *Marcum,* 60 M.J. 198 (C.A.A.F. 2004) (the court recognized that private sexual behavior between consenting adults may be constitutionally protected as applied in the military context); Appendix 23, para. 51(2).

While each commander has discretion to dispose of offenses by members of the command, wholly private and consensual sexual conduct between adults is generally not punishable under this paragraph. The right to engage in such conduct, however, is tempered in a military context by the mission of the military, the need for cohesive teams, and the need for obedience to orders. Cases involving fraternization or other unprofessional relationships may be more appropriately charged under Article 92 or Article 134—Fraternization. Cases involving abuse of authority by officers may be more appropriately charged under Article 133.

As with any alleged offense, R.C.M. 306(b) advises commanders to dispose of an allegation of adultery at the lowest appropriate level. As the R.C.M. 306(b) discussion states, many factors must be taken into consideration and balanced, including, to the extent practicable, the nature of the offense, any mitigating or extenuating circumstances, the character and military service of the military member, any recommendations made by subordinate commanders, the interests of justice, military exigencies, and the effect of the decision on the military member and the command. The goal should be a disposition that is warranted, appropriate, and fair. In the case of officers, also consult the explanation to paragraph 59 in deciding how to dispose of an allegation of adultery.''

(l) Paragraph 97, Article 134, Pandering and Prostitution, subparagraph (e) is amended to insert the following language after the paragraph beginning with the word ''2007'' and ending with the word ''Pandering'':

''*2013 Amendment:* The act of compelling another person to engage in act of prostitution with another person was replaced under paragraph 97 with a new offense under paragraph 45 in 2007. In 2012, the act was then moved to paragraph 45c, ''Other sexual misconduct.'' *See* Article 120c(b), ''Forcible Pandering.'' ''

Changes to Appendix 21, Analysis of Rules for Courts Martial

(a) RCM 307(c)(3), after the paragraph beginning with the words ''2004 Amendment'' delete the paragraph beginning with the words ''2012 Amendment,'' and insert in its place:

''*2013 Amendment.* In 2012, two new notes were added to address the requirement to

expressly state the terminal element in specifications under Article 134 and to address lesser included offenses. *See United States* v. *Ballan,* 71 M.J. 28 (C.A.A.F. 2012); *United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011); *United States* v. *Jones,* 68 M.J. at 465 (C.A.A.F. 2010). In 2013, the Manual was amended to require the terminal element be expressed in Article 134 and to alter the definition of lesser included offenses in Article 79. *See* paragraphs 3 and 60c(6) in Part IV of this Manual. The 2012 notes were removed.''

(b) RCM 307(c)(3)(A), after the paragraph beginning with the words ''*Sample specifications''* delete the paragraph beginning with the words ''2012 Amendment.''

(c) RCM 307(c)(3)(G), after the paragraph beginning with the words ''*Description of offense.''* delete the paragraph beginning with the words ''2012 Amendment,'' and insert in its place:

''*2013 Amendment.* In 2012, a new note was added to address the requirement to expressly state the terminal element in specifications under Article 134. *See United States* v. *Ballan,* 71 M.J. 28 (C.A.A.F. 2012); *United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011).''

(d) RCM 307(c)(3)(G)(i) is amended to insert the following language:

''*2013 Amendment.* In 2012, a new note was added to address the requirement to expressly state the terminal element in specifications under Article 134. *See United States* v. *Ballan,* 71 M.J. 28 (C.A.A.F. 2012); *United States* v. *Fosler,* 70 M.J. 225 (C.A.A.F. 2011).''

(e) RCM 307(c)(3)(G)(v) is inserted to add the following language:

''*2013 Amendment.* Subparagraph (v) was added in 2013 to address lesser included offenses and refer practitioners to Article 79 and new Appendix 12A. *See* paragraph 3 in Part IV and Appendix 12A. *See also* paragraph 3 in this Appendix.''

(f) RCM 307(c)(4), after the paragraph beginning with the words ''2005 Amendment'' delete the paragraph beginning with the words ''2012 Amendment,'' and insert in its place:

''*2013 Amendment.* The discussion section was added to R.C.M. 307(c)(4) to clarify the ambiguity between the two distinct concepts of multiplicity and unreasonable multiplication of charges. For analysis related to multiplicity, *see* R.C.M. 907(b)(3)(B) Analysis section. For analysis related to unreasonable multiplication of charges, *see* R.C.M. 906(b)(12) Analysis section.

Nothing in the Rule or the discussion section should be construed to imply that it would be overreaching for a prosecutor to bring several charges against an accused for what essentially amounts to one transaction if there is a valid legal reason to do so. For example, prosecutors may charge two offenses for exigencies of proof, which is a long accepted practice in military law. *See, e.g., United States* v. *Morton,* 69 M.J. 12 (C.A.A.F. 2009). The discussion section emphasizes that a prosecutor is not overreaching or abusing his discretion merely because he charges what is essentially one act under several different charges or specifications.

The language in the discussion section of the 2012 edition of the Manual referring to the *Campbell* decision was removed because it is no longer necessary, as the Rules themselves have been edited to remove any reference to ''multiplicious for sentencing.'' The example was removed from the discussion section because it overly generalized the concept of unreasonable multiplication of charges.''

(g) RCM 906(b)(12), delete the paragraph beginning with the words ''2012 Amendment,'' and insert in its place:

''*2013 Amendment.* This rule and related discussion is the focal point for addressing unreasonable multiplication of charges. If a practitioner seeks to raise a claim for multiplicity, that concept is addressed in R.C.M. 907(b)(3)(B) and related discussion. This rule has been amended because CAAF has recognized that practitioners and the courts have routinely confused the concepts of multiplicity and unreasonable multiplication of charges. *See, e.g., United States* v. *Campbell,* 71 M.J. 19, 23 (C.A.A.F. 2012) (''the terms multiplicity, multiplicity for sentencing, and unreasonable multiplication of charges in military practice are sometimes used interchangeably as well as with uncertain definition''); *United States* v. *Baker,* 14 M.J. 361, 372 (C.M.A. 1983) (Cook, J. dissenting) (''[t]hat multiplicity for sentencing is a mess in the military justice system is a proposition with which I believe few people familiar with our system would take issue'').

Multiplicity and unreasonable multiplication of charges are two distinct concepts. Unreasonable multiplication of charges as applied to findings and sentence is a limitation on the prosecution's discretion to charge separate offenses. Unreasonable multiplication of charges does not have a foundation in the Constitution but is instead based on the concept of reasonableness and is a prohibition against prosecutorial overreaching. In contrast, multiplicity is based on the Double Jeopardy clause of the Fifth Amendment and prevents an accused from being twice punished for one offense if it is contrary to the intent of Congress. A charge may be found not to be multiplicious but at the same time it may be dismissed because of unreasonable multiplication. *See United States* v. *Quiroz,* 55 M.J. 334, 337 (C.A.A.F. 2001).

Use of the term ''multiplicity (or multiplicious) for sentencing'' is inappropriate. If a charge is multiplicious, meaning that it violates the Constitutional prohibition against Double Jeopardy, it necessarily results in dismissal of the multiplied offenses, therefore obviating any issue on sentencing with respect to that charge. *Campbell,* 71 M.J. at 23. A charge should not be found multiplicious for sentencing but not for findings. Thus, the more appropriate term for the military judge's discretionary review of the charges at sentencing is ''unreasonable multiplication of charges as applied to sentence.'' *Id.* at 24. The Rule was changed to remove ''multiplicity for sentencing'' from the Manual, eliminating confusion and misuse.

Subparagraphs (i) and (ii) were added to the rule to clarify the distinction between unreasonable multiplication of charges as applied to findings and to sentence. Although these concepts have existed for years (*see* Michael J. Breslin & LeEllen Coacher, *Multiplicity and Unreasonable Multiplication of Charges: A Guide to the Perplexed,* 45 A.F.L. Rev. 99 (1998) for a history of the terms), they were not defined in previous editions of the Manual. The definitions were adopted from *Quiroz, Campbell,* and recommendations from Christopher S. Morgan, *Multiplicity: Reconciling the Manual for Courts-Martial,* 63 A.F.L. Rev. 23 (2009). It is possible that two offenses are not unreasonably multiplied for findings but are so for sentencing; these additions explain how this can be so. *See, e.g., Campbell,* 71 M.J. at 25 (where CAAF found that the military judge did not abuse his discretion by finding that there was not an unreasonable multiplication of charges as applied to findings but that there was an unreasonable multiplication of charges as applied to sentence).

The discussion sections were added to address concerns that CAAF voiced in dicta in *Campbell.* In previous editions of the Manual, military judges often used the discussion section in R.C.M. 1003(b)(8)(C) to determine when relief was warranted for unreasonable multiplication of charges as applied to sentence. The *Campbell* court stated in a footnote: ''It is our view that after *Quiroz,* the language in the Discussion to R.C.M. 1003(b)(8)(C) regarding 'a single impulse or intent,' is dated and too restrictive. The better approach is to allow the military judge, in his or her discretion, to merge the offense for sentencing purposes by considering the *Quiroz* factors and any other relevant factor * * *'' *Campbell,* 71 M.J. at 24 n.9. The Discussion was changed to address the *Quiroz* factors and remove any reference to the 'single impulse or intent' test, as suggested by CAAF. The Committee also decided to move the Discussion section from R.C.M. 1003(b)(8)(C) to this Rule because R.C.M. 1003 deals exclusively with sentencing and a motion for appropriate relief due to unreasonable multiplication of charges can be raised as an issue for findings or for sentence under this Rule. Therefore, it is more appropriate to address the issue here.

For more information on multiplicity and how it relates to unreasonable multiplication of charges, see Michael J. Breslin & LeEllen Coacher, *Multiplicity and Unreasonable Multiplication of Charges: A Guide to the Perplexed,* 45 A.F.L. Rev. 99 (1998); Christopher S. Morgan, *Multiplicity: Reconciling the Manual for Courts-Martial,* 63 A.F.L. Rev. 23 (2009); Gary E. Felicetti, *Surviving the Multiplicty/LIO Family Vortex,* Army Law., Feb. 2011.

The language in the discussion section of the 2012 edition of the Manual referring to the *Campbell* decision was removed because it is no longer necessary, as the Rules themselves have been edited to remove any reference to ''multiplicious for sentencing'' and additional discussion sections were added to eliminate any confusion with the terms.''

(h) RCM 907(b)(3)(B), is amended to insert the following language:

''*2013 Amendment.* This rule and related discussion is the focal point for addressing claims of multiplicity. If a practitioner seeks to raise a claim for unreasonable multiplication of charges, that concept is addressed in R.C.M. 906(b)(12) and related discussion. The heading of this rule was added to signify that this rule deals exclusively with multiplicity, and not unreasonable multiplication of charges. The discussion section of this rule was amended because the Committee believed that a more thorough definition of multiplicity was appropriate in light of CAAF's suggestion in *United States* v. *Campbell,* 71 M.J. 19, 23 (C.A.A.F. 2012) that the concepts of multiplicity and unreasonable multiplication of charges are often confounded.

The discussion of multiplicity is derived from the Supreme Court's holding in *Blockberger* v. *United States,* 284 U.S. 299 (1932) and CMA's holding in *United States* v. *Teters,* 37 M.J. 370 (C.M.A. 1993). The Court in *Blockberger* wrote: ''[W]here the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offense or only one, is whether each provision requires proof of a fact that the other does not.'' *Blockberger,* 284 U.S. at 304. Military courts departed from the *Blockburger* analysis; however, the CMA's decision in *Teters* clearly re-aligned the military courts with the federal courts, and multiplicity is now determined in the military courts by the *Blockberger/Teters* analysis outlined in the discussion section. Any reference to the ''single impulse'' or ''fairly embraced'' tests is outdated and should be avoided.

Two offenses that arise from the same transaction may not be multiplicious, even if they do not require proof of an element not required to prove the other, if the intent of Congress was that an accused could be convicted and punished for both offenses arising out of the same act. The *Blockberger/Teters* analysis applies only when Congress has not made a statement of intent, either expressly in the statute or through legislative history, that the offenses be treated as separate. If it was Congress' intent to draft two statutes that subject an accused to multiple punishments for the same transaction, and that intent is clear, the *Blockberger/Teters* elements comparison is unnecessary. *See, e.g., Missouri* v. *Hunter,* 459 U.S. 359, 368 (1983) (''simply because two criminal statutes may be construed to proscribe the same conduct under the *Blockburger* test does not mean that the Double Jeopardy Clause precludes the imposition, in a single trial, of cumulative punishments pursuant to those statutes * * * [Where a] legislature specifically authorizes cumulative punishment under two statutes, regardless of whether those two statutes proscribe the 'same' conduct under *Blockburger,* a court's task of statutory construction is at an end and the prosecutor may seek and the trial court or jury may impose cumulative punishment under such statutes in a single trial'').

The language in the discussion section of the 2012 edition of the Manual referring to the *Campbell* decision was removed because it is no longer necessary, as the Rules themselves have been edited to remove any reference to ''multiplicious for sentencing'' and additional discussion sections were added to eliminate any confusion with the terms.''

(i) RCM 916(b), is amended to insert the following language immediately following the paragraph beginning with the words ''*2007 Amendment*'':

''*2013 Amendment:* Changes to this paragraph are based on section 541 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, 31 December 2011, which supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct,'' in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child,'' and paragraph 45c., ''Other sexual misconduct.''

(j) RCM 916(j), is amended to insert the following language immediately following the paragraph beginning with the words ''*2007 Amendment*'':

''*2013 Amendment:* Changes to this paragraph are based on section 541 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, 31 December 2011, which supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct,'' in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child,'' and paragraph 45c., ''Other sexual misconduct.''

Paragraph (j)(3) was deleted based on the changes to Article 120 and in light of the fact that the Court of Appeals for the Armed Forces ruled that the statutory burden shift to the accused in the 2007 version of Article 120 was unconstitutional and the subsequent burden shift to the government to disprove consent beyond a reasonable doubt once the accused had raised the affirmative defense of consent by a preponderance of the evidence resulted in a legal impossibility. *United States* v. *Prather,* 69 M.J. 338 (C.A.A.F. 2011); *United States* v. *Medina,* 69 M.J. 462 (C.A.A.F. 2011).''

(k) RCM 920(e)(5)(D), is amended to insert the following language immediately following the paragraph beginning with the words ''*2007 Amendment*'':

''*2013 Amendment:* Changes to this paragraph are based on section 541 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, 31 December 2011, which supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct,'' in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child,'' and paragraph 45c., '' 'Other sexual misconduct.' ''

(l) RCM 1003(c)(1)(C), delete the paragraph beginning with words the ''2012 Amendment,'' and insert in its place:

''*2013 Amendment.* This Rule was amended because the language in previous editions of the Manual seemed to suggest that an accused could not be punished for offenses that were not separate. This is only true if there is no express statement from Congress indicating that an accused can be punished for two or more offenses that are not separate. *See* R.C.M. 907(b)(3) and related analysis. The committee added subsections (i) and (ii) to distinguish between claims of multiplicity and unreasonable multiplication of charges. As the two concepts are distinct, it is important to address them in separate subsections. *See* R.C.M. 906(b)(12) for claims of unreasonable multiplication of charges and R.C.M. 907(b)(3)(B) for claims of multiplicity.

Additionally, the Committee decided to move the discussion of the *Quiroz* factors from this Rule to R.C.M. 906(b)(12) because the factors apply to unreasonable multiplication of charges as applied to findings as well as sentence. Because this Rule refers only to sentencing, it is more appropriate to address the military judge's determination of unreasonable multiplication in R.C.M. 906(b)(12), because that Rule covers both findings and sentence. *See* R.C.M. 906(b)(12) and related analysis.

The language in the discussion section of the 2012 edition of the Manual referring to the *Campbell* decision was removed because it is no longer necessary, as the Rules themselves have been edited to remove any reference to ''multiplicious for sentencing'' and the discussion section of R.C.M. 906(b)(12) addresses the *Quiroz* factors.''

(m) RCM 1004(c)(7)(B), is amended to insert the following language immediately following the paragraph beginning with the words ''*2007 Amendment*'':

''*2013 Amendment:* Changes to this paragraph are based on section 541 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, 31 December 2011, which supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct'', in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child'', and paragraph 45c., 'Other sexual misconduct.' ''

(n) RCM 1004(c)(8), is amended to insert the following language immediately following the paragraph beginning with the words ''*2007 Amendment*'':

''*2013 Amendment:* Changes to this paragraph are based on section 541 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, 31 December 2011, which supersedes the previous paragraph 45, ''Rape, sexual assault and other sexual misconduct,'' in its entirety and replaces paragraph 45 with ''Rape and sexual assault generally.'' In addition, it adds paragraph 45b., ''Rape and sexual assault of a child,'' and paragraph 45c., 'Other sexual misconduct.' ''

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Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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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. 1272/P.L. 112–179
Minnesota Chippewa Tribe Judgment Fund Distribution Act of 2012 (Oct. 5, 2012; 126 Stat. 1411)

H.R. 1791/P.L. 112–180
To designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the ''Alto Lee Adams, Sr., United States Courthouse''. (Oct. 5, 2012; 126 Stat. 1415)

H.R. 2139/P.L. 112–181
Lions Clubs International Century of Service Commemorative Coin Act (Oct. 5, 2012; 126 Stat. 1416)

H.R. 2240/P.L. 112–182
Lowell National Historical Park Land Exchange Act of 2012 (Oct. 5, 2012; 126 Stat. 1420)

H.R. 2706/P.L. 112–183
Billfish Conservation Act of 2012 (Oct. 5, 2012; 126 Stat. 1422)

H.R. 3556/P.L. 112–184
To designate the new United States courthouse in Buffalo, New York, as the ''Robert H. Jackson United States Courthouse''. (Oct. 5, 2012; 126 Stat. 1424)

H.R. 4158/P.L. 112–185
To confirm full ownership rights for certain United States astronauts to artifacts from the astronauts' space missions. (Oct. 5, 2012; 126 Stat. 1425)

H.R. 4223/P.L. 112–186
Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act of 2012 (Oct. 5, 2012; 126 Stat. 1427)

H.R. 4347/P.L. 112–187
To designate the United States courthouse located at 709 West 9th Street in Juneau, Alaska, as the ''Robert Boochever United States Courthouse''. (Oct. 5, 2012; 126 Stat. 1432)

H.R. 5512/P.L. 112–188
Divisional Realignment Act of 2012 (Oct. 5, 2012; 126 Stat. 1433)

H.R. 6189/P.L. 112–189
Reporting Efficiency Improvement Act (Oct. 5, 2012; 126 Stat. 1435)

H.R. 6215/P.L. 112–190
To amend the Trademark Act of 1946 to correct an error in the provisions relating to remedies for dilution. (Oct. 5, 2012; 126 Stat. 1436)

H.R. 6375/P.L. 112–
91 VA Major Construction Authorization and Expiring Authorities Extension Act of 2012 (Oct. 5, 2012; 126 Stat. 1437)

H.R. 6431/P.L. 112–192
To provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes. (Oct. 5, 2012; 126 Stat. 1441)

H.R. 6433/P.L. 112–193
FDA User Fee Corrections Act of 2012 (Oct. 5, 2012; 126 Stat. 1443)

S. 300/P.L. 112–194
Government Charge Card Abuse Prevention Act of 2012 (Oct. 5, 2012; 126 Stat. 1445)

S. 710/P.L. 112–195
Hazardous Waste Electronic Manifest Establishment Act (Oct. 5, 2012; 126 Stat. 1452)

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