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

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

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1433]

RIN 7100 AD 83

Reserve Requirements of Depository Institutions: Reserves Simplification

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; delay of effective date.

SUMMARY: The Board is delaying the effective date for implementation of certain provisions of its final rule amending the Board's Regulation D (Reserve Requirements of Depository Institutions) published in the **Federal Register** on April 12, 2012. The final rule's effective date is being delayed to allow for further development and testing of the automated systems necessary to support the implementation of certain provisions.

DATES: The effective date of amendments to 12 CFR 204.2(z), (ff), (gg) and (hh); §§ 204.5(b)(2), (d)(4)(i), (e)(1) and (e)(2); 204.6(a) and (b); and 204.10(b)(1), (b)(3), and (c), published April 12, 2012, at 77 FR 21846, is delayed from January 24, 2013, until June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Sophia Allison, Senior Counsel, (202) 452–3565, or Kara Handzlik, Senior Attorney, (202) 452–3852, Legal Division; or Margaret Gillis DeBoer, Assistant Director, (202) 452–3139, or Karen Brooks, Senior Business Analyst (202) 973–6189, Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Board published its final rule amending Regulation D, 12 CFR part 204, on April 12, 2012, (77 FR 21846) to implement the following four simplifications related to the administration of reserve requirements:

1. Create a common two-week maintenance period for all depository institutions;
2. Create a penalty-free band around reserve balance requirements in place of using carryover and routine penalty waivers;
3. Discontinue as-of adjustments related to deposit report revisions and replace all other as-of adjustments with direct compensation; and
4. Eliminate the contractual clearing balance program.

The Board announced in the final rule that it would implement the elimination of the contractual clearing balance program and the use of as-of adjustments earlier than it would implement the common maintenance period and the penalty-free band. The Board implemented the elimination of the contractual clearing balance program and the issuance of as-of adjustments effective July 12, 2012. The Board announced January 24, 2013, as the implementation date for the common two-week maintenance period, the penalty-free band, and the elimination of carryover and routine penalty waivers, as reflected in the following revised sections of Regulation D: §§ 204.2(z), (ff), (gg) and (hh); §§ 204.5(b)(2), (d)(4)(i), (e)(1) and (e)(2); §§ 204.6 (a) and (b); and §§ 204.10 (b)(1), (b)(3), and (c). The Board also announced that it would provide public notice no later than November 1, 2012, if the January 24, 2013, date will be delayed.

The Board is delaying until June 27, 2013, the January 24, 2013, date to allow the Federal Reserve to further develop and test the automated systems necessary to support the common two-week maintenance period, the penalty-free band, and the elimination of carry-over and routine penalty waivers. Further development and testing are necessary to ensure the effective operation of the automated systems. This delay will also facilitate a smooth transition for affected institutions by allowing them more time to develop their internal systems and prepare for implementation of these revisions. Moreover, the delay will not prejudice or create additional burden for affected institutions or Federal Reserve Banks.

Administrative Law Matters

Administrative Procedure Act

Under the Administrative Procedure Act (APA), an agency may, for good cause, find that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). As noted above, the Board previously announced that it may delay the January 24, 2013, effective date for certain provisions of the final rule but would provide notice of such a delay by November 1, 2012. Moreover, the revised effective date does not impose additional burden on affected institutions and will provide those institutions with additional time for implementation. For these reasons, along with the reasons noted above, the Board has determined that there is good cause to find that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted above, the Board has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

The Board has reviewed the final rule in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320). No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

By order of the Board of Governors of the Federal Reserve System, October 25, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–26731 Filed 11–2–12; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC50

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investment Management

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, us, our, or we) issues this final rule to amend our regulations governing investments held by institutions of the Farm Credit System (FCS or System), as well as related regulations. This final rule strengthens our regulations governing investment management and interest rate risk management; reduces regulatory burden for investments that fail to meet eligibility criteria after purchase; and makes other changes that will enhance the safety and soundness of System institutions.

DATES: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Timothy T. Nerdahl, Senior Financial Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (952) 854–7151 extension 5035, TTY (952) 854–2239;

Or

Jennifer A. Cohn, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this rule are to:

- Ensure that Farm Credit banks [1] hold sufficient high-quality, readily marketable investments to provide sufficient liquidity to continue operations and pay maturing obligations in the event of market disruption;
- Strengthen the safety and soundness of System institutions;
- Reduce regulatory burden with respect to investments that fail to meet eligibility criteria after purchase; and
- Enhance the ability of the System to supply credit to agriculture and aquatic producers by ensuring adequate availability to funds.

II. Background

Congress created the System as a Government-sponsored enterprise (GSE) to provide a permanent, stable, and reliable source of credit and related services to American agricultural and aquatic producers. Farm Credit banks obtain funds that they and System associations use to provide credit and related services primarily through the issuance of Systemwide debt securities.[2] If access to the debt market becomes temporarily impeded, Farm Credit banks must have enough readily available funds to continue operations and pay maturing obligations. Subpart E of part 615 imposes comprehensive requirements regarding the investments of System institutions in order to ensure continuity of operations.

III. History of Rule

We adopted our last major revisions to our investment regulations in 1999 and amended them in a more limited manner in 2005. Since 1999, the marketplace pertaining to investments has changed significantly. Innovations in investment products have led to their increasing complexity, and investors need to have greater expertise to fully understand them. In addition, the financial crisis that began in 2007 resulted in numerous investment downgrades and the loss of billions of dollars by financial institutions. While System banks suffered considerably less stress during the crisis than many other financial institutions, they did experience numerous downgrades and some losses on individual investments.

In 2010, we issued FCA Bookletter BL–064, which provided clarification and guidance regarding our regulations and expectations with respect to the key elements of a robust investment asset management framework that institutions should establish to prudently manage their investments in changing markets.[3] The issuance of this bookletter was an interim measure towards strengthening our investment regulations.

On August 18, 2011, we published a proposed rule to amend FCA's regulations governing System investments.[4] Our intention was to strengthen and enhance board governance and controls and clarify our expectations over investment management practices, while reducing regulatory burden in several areas. After considering the comments we received on the proposed rule, we now plan to finalize the proposed provisions contained in the proposed rule in installments.

This first installment of final regulations will revise the following regulations:

- § 615.5131—Definitions;
- § 615.5132—Investment Purposes;
- § 615.5133—Investment Management;
- § 615.5136—Emergencies Impeding Normal Access of Farm Credit Banks to Capital Markets;
- § 615.5143—Management of Ineligible Investments and Reservation of Authority to Require Divestiture;
- § 615.5174—Farmer Mac Securities;
- § 615.5180—Bank Interest Rate Risk Management Program; and
- 615.5182—Interest Rate Risk Management by Associations and Other Farm Credit System Institutions Other Than Banks.

In addition, we are making minor technical conforming revisions to § 615.5140 and to § 615.5201, which is the Definitions section in our capital adequacy regulations.

Finally, we are deleting the following existing provisions:

- § 615.5135—Management of Interest Rate Risk (we are incorporating its provisions, as amended, into § 615.5180);
- § 615.5141—Stress Tests for Mortgage Securities (we are incorporating its provisions, as amended, into §§ 615.5133(f)(1)(iii) and 615.5133(f)(4)); and
- § 615.5181—Bank Interest Rate Risk Management Program (we are incorporating its provisions, as amended, into § 615.5180).

We intend to address in one or more future rulemakings regulations covering all the areas of the proposed rule not covered in this final rule, including investment eligibility (including revised creditworthiness requirements) and association investments. The regulations that we proposed to revise but that we are not revising at this time include:

- § 615.5140—Eligible Investments (except for minor technical changes); and
- § 615.5142—Association Investments.

This final regulation codifies much of the guidance that was contained in BL–064. In many areas, however, the regulation imposes requirements that go beyond the Bookletter's guidance. Although the Bookletter may continue to provide useful guidance, institutions must be sure that they are complying with the requirements in this regulation.

[1] Section 619.9140 of FCA regulations defines Farm Credit bank to include Farm Credit Banks, agricultural credit banks, and banks for cooperatives.

[2] Farm Credit banks use the Federal Farm Credit Banks Funding Corporation (Funding Corporation) to issue and market Systemwide debt securities. The Funding Corporation is owned by the Farm Credit banks.

[3] FCA Bookletter BL–064, *Farm Credit System Investment Asset Management* (December 9, 2010). This Bookletter may be viewed at *www.fca.gov*. Under Quick Links, click on Bookletters.

[4] 76 FR 51289.

Because we are not at this time finalizing revisions to § 615.5142, governing association investments, the guidance on association investments in BL–064, which clarifies existing § 615.5142, will continue to be relevant. In addition, institutions should be mindful of our Informational Memorandum on Association Investments dated May 16, 2012, which reminds banks and associations of their obligations under § 615.5142.

IV. Discussion of Comment Letters and Section-by-Section Analysis of Final Rule

FCA received comment letters from two Farm Credit banks—CoBank, ACB and the Farm Credit Bank of Texas. FCA also received comment letters from four Farm Credit associations—Colonial Farm Credit, ACA, FCS Financial, ACA, Farm Credit Services of Mid-America, ACA, and AgStar Financial Services, ACA. In addition, the Farm Credit Council (Council) submitted comments that were developed with input from a workgroup that includes financial officers from several associations, all Farm Credit banks, and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). Finally, we also considered a comment letter the Council submitted to FCA on a similar proposed rule governing the Federal Agricultural Mortgage Corporation (Farmer Mac) [5] that generally encouraged us to make the requirements of the two rules more similar. Although the two final rules continue to differ where appropriate, changes were made to both this rule and the Farmer Mac rule to make the requirements more similar.[6]

We received many constructive comments on the proposed rule. In general, the commenters stated that several of the provisions would enhance investment management at System institutions. They also stated, however, that many provisions of the proposed rule were inordinately and unnecessarily prescriptive.

The Council also commented generally that the rule is unnecessary in light of FCA Bookletter BL–064. In response, we believe it is prudent to codify the bookletter's guidance into regulation. In addition, as stated above, in many areas the regulation imposes requirements that go beyond the bookletter's guidance. Accordingly, this regulation is necessary notwithstanding FCA Bookletter BL–064.

We will address each specific comment received in our discussion of the regulation provision to which the comment relates. Those areas of the proposed rule not receiving comment or receiving positive comments are finalized as proposed unless otherwise discussed in this preamble. Throughout this regulation, we make minor technical, clarifying, and non-substantive language changes that we do not specifically discuss in this preamble.

A. Section 615.5131—Definitions

We proposed to amend § 615.5131 to add definitions for the terms Government agency and Government-sponsored agency. The Council noted that FCA had already defined these terms in our capital adequacy regulation at § 615.5201. The Council stated that FCA and the other banking regulators ''essentially define these terms identically'' for capital purposes, and it asked us to conform the definitions.

We note that the definitions of these terms in the capital regulations of FCA and of other banking regulators such as the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) contain technical differences from one another.[7] In an effort to bring additional clarity to these definitions, the definitions we proposed in this rulemaking also differed in technical ways from any of these other definitions. In the absence of definitive common definitions, we believe our technical differences from the other regulators are warranted. We agree, however, that FCA's definitions should be consistent among themselves. Accordingly, we are finalizing the § 615.5131 definitions as proposed with minor technical changes and, as discussed below, we are revising the definitions in § 615.5201 to conform.

Section 615.5131 defines Government agency as the United States Government or an agency, instrumentality, or corporation of the United States Government whose obligations are fully and explicitly insured or guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government. Section 615.5131 defines Government-sponsored agency as an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations are not fully and explicitly insured or guaranteed by the full faith and credit of the United States Government. This definition includes GSEs such as the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), as well as Federal agencies, such as the Tennessee Valley Authority, that issue obligations that are not explicitly guaranteed by the Government of the United States' full faith and credit.

B. Section 615.5132—Investment Purposes

Section 615.5132 permits each Farm Credit bank to hold eligible investments, for specified purposes,[8] in an amount not to exceed 35 percent of its total outstanding loans. We remind banks that generating earnings is not an authorized investment purpose, although it is permissible if the earnings are incidental to one or more of the specified investment purposes.[9]

In our proposed rule, we asked whether the 35-percent investment limit should be raised. Commenters responded that this limit was appropriate, as long as our regulations permitted the exclusion of certain investments. We discuss these comments, and our responses, below.

1. Exclusion of Investments Pledged To Meet Margin Requirements for Derivative Transactions

In § 615.5132(b)(1), we adopt as final our proposal to permit Farm Credit banks to exclude investments pledged to meet margin requirements for derivative transactions (collateral) when calculating the 35-percent investment limit under paragraph (a). We note that investments that are pledged as collateral do not count toward a Farm Credit bank's compliance with its liquidity requirements.[10] We make this change because derivatives are used as a hedging tool against interest rate risk and liquidity risk. Farm Credit banks use derivative products as an integral part of their interest rate risk

[5] 76 FR 71798 (November 18, 2011).

[6] In the interest of consistency, the FCA Board adopted the final rule governing Farmer Mac's investment management at the same time it adopted this final rule. That final rule is also published in today's issue of the **Federal Register**.

[7] *See, e.g.,* 12 CFR Part 208, App. A (FRB); 12 CFR Part 225, App. A (FRB); 12 CFR Part 325, App. A (FDIC); 12 CFR Part 3, App. A (OCC).

[8] The specified purposes are maintaining a liquidity reserve, managing surplus short-term funds, and managing interest rate risk.

[9] We also remind associations that, pursuant to § 615.5142, which we are not amending today, their only authorized investment purposes are reducing interest rate risk and managing surplus short-term funds. One association commenter suggested that it holds investments to augment income. As with banks, augmenting income through investments is permissible only if such income is incidental to one or more of the authorized investment purposes. Under § 611.1135(a), service corporations may hold investments for the purposes authorized for their organizers.

[10] Under § 615.5134(b), all investments that a bank holds for the purpose of meeting the liquidity reserve requirement must be free of lien.

management activities and as a supplement to the issuance of debt securities in the capital markets. We recognize that banks are required to post collateral to counterparties resulting from entering into derivative transactions, and we believe banks should not be discouraged from implementing appropriate risk management practices. We received positive comments on this proposal from the Council and a bank.

2. Exclusion of Other Investments

Some commenters requested that we also exclude certain other investments from the 35-percent limit. They requested that we exclude securities purchased and designated for the primary purpose of posting collateral for derivative positions, even if the collateral is returned or the securities are never posted. These commenters stated that including these securities in the 35-percent limit would require a bank to maintain a cushion under the limit to accommodate the possibility of return, thereby limiting the amount of other investments it can hold to manage its liquidity position and derivative counterparty exposures.

Commenters also requested that we exclude Treasury securities from the 35-percent limit. They stated that including Treasury securities in the limit crowds out other higher-yielding, high-quality liquid investments. Thus, their inclusion in the limit creates an economic constraint and disincentive to holding Treasury securities, even though they are the most liquid and marketable investment. They requested that we treat Treasury securities like cash and exclude them from the 35-percent limit.

Finally, the Council requested that investment securities pledged in secured borrowing relationships be excluded from the 35-percent limit. The Council cited State Ag-Linked lending programs and repurchase agreements as examples of these secured borrowing relationships. Under both arrangements, according to the Council, the pledging of securities acts as an alternative that provides cash for operations without the issuance of new Federal Farm Credit Banks debt obligations. Under § 615.5134(b), these investments may not be counted in the liquidity reserve because they are not unencumbered. The Council asserts that excluding pledged securities from the 35-percent limit would be consistent with use of the securities as an alternative method to secure financing and their treatment under the FCA regulatory liquidity measurement.

We decline to exclude these investments from the investment limit on a blanket basis. We view these types of transactions as part of a Farm Credit bank's normal cash management operations. Thus, under normal conditions, we expect each Farm Credit bank to manage the level of its investments within FCA's portfolio size limits to ensure regulatory compliance. As discussed below, however, we are providing additional flexibility to each bank in the management of its investment portfolio by revising the regulation to allow compliance with the limit on a 30-day average daily balance (ADB) basis rather than on a daily basis; this change will enable a bank to exceed the investment limit temporarily, as long as its 30-day ADB is below the limit. Moreover, final § 615.5132(b)(2) permits the exclusion from the investment limit of other investments as FCA determines is appropriate.

3. Revision to Calculation

In order to provide Farm Credit banks with additional flexibility to manage their investment portfolio, we are modifying how the 35-percent investment limit is calculated in paragraph (a).

The numerator (investments) will be calculated as a 30-day ADB of investments measured at amortized cost, excluding interest and net of all collateral pledged for derivative purposes and any other investments for which FCA has approved exclusions. The calculation of the denominator (total outstanding loans) remains unchanged, although the regulation makes explicit our existing interpretation that total loans include accrued interest and do not include allowance for loan loss.[11] Compliance will only be measured at month end.

Example of the January 31, 2012 calculation: 30-day ADB of investments as of January 31, 2012 divided by the 90-day ADB of total outstanding loans as of December 31, 2011.

Example of the March 31, 2012 calculation: 30-day ADB of investments as of March 31, 2012 divided by the 90-day ADB of total outstanding loans as of March 31, 2012.

We believe this modification of the 35-percent calculation will provide additional flexibility for Farm Credit banks in managing their investment portfolios. Because FCA will evaluate compliance at month end and on a 30-day ADB rather than the actual daily balance, a bank that receives a large amount of returned collateral that temporarily increases its investment portfolio above 35 percent on a particular day, for example, should still be below the 35-percent ADB—unless it is managing its investment portfolio too close to the 35-percent limit.

C. Section 615.5133—Investment Management

Effective investment management requires financial institutions to establish policies that include risk limits, approved mechanisms for identifying, measuring, and reporting exposures, and strong corporate governance. The recent crisis and its lingering effects have re-emphasized the importance of sound investment management, and we believe that strengthened regulation would further ensure the safe and sound management of investments. Accordingly, we are making significant changes to § 615.5133, which governs investment management.

One association commented that the economic impact of certain proposals on small associations could be profound, because they cannot afford a bank's level of investment management expertise. The association recognizes that association boards and management have a fiduciary duty to manage investments in a safe and sound manner, but it stated that it depends on its funding bank, in its approval role, to provide advice regarding unwise investment decisions. In addition, according to the association commenter, requiring associations to add unnecessary investment management committees, policies, analyses, and reports increases expenses and decreases the benefits of investments.

Revised § 615.5133(b), which we discuss in greater detail below, requires investment policies to be sufficiently detailed, consistent with, and appropriate for the amounts, types, and risk characteristics of an institution's investments.[12] As we stated in 1999 and have repeated since that time, bank oversight does not absolve an association's board and managers of their fiduciary responsibilities to manage investments in a safe and sound manner. The fiduciary responsibilities of association boards obligate them to develop appropriate investment management policies and practices to manage the risks associated with investment activities. Moreover, each association's investment managers must fully understand the risks of its investments and make independent and

[11] Section 615.5131 provides that loans are calculated quarterly (as of the last day of March, June, September, and December) by using the ADB of loans during the quarter.

[12] The existing language imposes similar requirements.

objective evaluations of investments prior to purchase. An association must comply with all the requirements in § 615.5133 if the level or type of its investments could expose its capital to material loss.

A bank's approval serves as an additional safeguard for an association's investments, but the association must nevertheless have the requisite expertise to manage the investments that it holds.

1. Section 615.5133(a)—Responsibilities of Board of Directors

The Council commented that the proposed requirement that the board (or a designated committee of the board) must, at least annually, review and ''affirmatively validate'' the sufficiency of its investment policies is overly prescriptive, burdensome, and unclear. We agree that a review requirement is sufficient and delete ''affirmatively validate'' from the final rule.

We also move to this section and clarify a documentation requirement that we had proposed in § 615.5133(b). We had proposed to require institutions to document in their records or board minutes any analyses used in formulating their policies or amendments to the policies. The Council stated that suggesting board minutes as a place to document this analysis is burdensome and does not enhance the investment management process. We do not agree that suggesting board minutes as an optional location for documentation is burdensome. Nevertheless, we revise the last sentence of § 615.5133(a) to require that any changes to the policies must be documented, without specifying a location.

The revisions in this paragraph are otherwise unchanged from the proposed rule. All other comments supported the proposed revisions in this provision.

2. Section 615.5133(b)—Investment Policies—General Requirements

The Council commented that the revisions in this proposed paragraph appeared reasonable overall. We move from § 615.5133(f)(1) a sentence requiring investment policies to fully address the extent of pre-purchase analysis that management must perform for various classes of investments. Otherwise, except for several minor non-substantive technical changes, the revisions in this paragraph are unchanged from the proposed rule.

3. Section 615.5133(c)—Investment Policies—Risk Tolerance

We received comment on the clarity of the proposed language in this provision. Accordingly, we are clarifying the requirements in final § 615.5133(c) to require that investment policies must include concentration limits to ensure prudent diversification of credit, market, and liquidity risk in the investment portfolio.

In addition, our proposed rule, as well as our existing rule, provides that risk limits must be based on an institution's institutional objectives, capital position, and risk tolerance. In the final rule, we are requiring that risk limits be based on all relevant factors, including an institution's institutional objectives, capital position, earnings, and quality and reliability of risk management systems. In addition, in light of our relocation of our interest rate risk management requirements to another subpart of these regulations (discussed below), we are making explicit that risk limits must also consider the interest rate risk management program required for banks and associations.

a. Section 615.5133(c)(1)—Credit Risk

Existing § 615.5133(c)(1)(ii) requires an institution's board to review annually the investment policy criteria for selecting securities firms and to determine whether to continue the institution's existing relationships with them. To reduce regulatory burden, we proposed to permit a designated committee of the board to review the criteria and to determine whether to continue existing relationships, but the board would have had to approve any changes to the criteria or to the existing relationships.

Both the Council and a bank objected to the existing requirement that the board must determine whether to continue an institution's existing relationships with securities firms. They commented that this requirement is confusing, creates an excessive burden, and results in an unnecessary distraction for the board.

We agree that as long as an institution's board (or a designated committee) reviews the selection criteria on an annual basis, and the board approves any changes to the criteria, the board does not need to be involved in the approval of the relationships. Accordingly, we have deleted the existing and proposed requirements of board involvement in an institution's relationships with securities firms.

Existing § 615.5133(c)(1)(iii) requires investment policies to establish collateral margin requirements on repurchase agreements. We proposed to require institutions to regularly mark the collateral to market and ensure appropriate controls are maintained over collateral held. We received positive comments on this provision and adopt it as proposed.

b. Section 615.5133(c)(2)—Market Risk

Existing § 615.5133(c)(2) requires an institution's board to establish market risk limits in accordance with our regulations and other policies. In our proposed rule, we specifically identified these other regulations as those governing stress testing and interest rate risk.

The Council objected to the proposed revision, stating that it did not appear to add a new requirement but that it could be used to impose duplicative requirements. In addition, the Council vigorously objected to the proposed and existing reference to ''other policies''; because these policies have not been subject to notice and comment rulemaking, we cannot require compliance with them in this regulation.

In response to these comments, the final regulation, like the existing regulation, requires investment policies to set market risk limits for specific types of investments and for the investment portfolio.[13] We believe this requirement is sufficient and the reference to our ''regulations and * * * other policies'' is not needed.

4. Section 615.5133(e)—Internal Controls

Existing § 615.5133(e)(2) requires System institutions to establish and maintain a separation of duties and supervision between personnel who execute investment transactions and personnel who approve, revaluate, and oversee investments. Proposed § 615.5133(e)(2) would have added to the list of personnel whose duties and supervision would have had to be separated from personnel who execute investment transactions. These additional personnel would have been those who post accounting entries, reconcile trade confirmations, and report compliance with investment policy.

Both the Council and a bank objected to this proposed revision as overly prescriptive. In response, rather than itemizing all of the possible personnel functions, final § 615.5133(e)(2) provides that System institutions must establish and maintain a separation of duties between personnel who supervise or execute investment transactions and personnel who supervise or engage in all other investment-related functions. These other investment-related functions

[13] We adopt our proposed technical changes to this provision.

include those itemized in the list in the proposed rule, as well as any other functions that are investment-related. Examples of those items in the proposed rule include but are not limited to posting accounting entries and reconciling trade confirmations. This regulation does not prohibit one person from performing or supervising more than one investment-related function, except that the same person cannot supervise or execute investment transactions and at the same time supervise or engage in any other investment-related function. Each institution must maintain appropriate controls as warranted by the complexity and risk of its investment operations.

Proposed § 615.5133(e)(4) would have added a new requirement that System institutions must implement effective internal audit programs to review, at least annually, their investment controls, processes, and compliance with FCA regulations and other regulatory guidance. Internal audit programs would have had to specifically include a review of the process for ensuring all investments, at the time of purchase, were eligible and suitable for purchase under the boards' investment policies.

The Council and both bank commenters stated that this requirement was too prescriptive and eliminated the flexibility that is necessary for an institution's internal auditors to establish its own risk-based approach to audits. An association encouraged FCA to set a de minimis investment portfolio amount relative to an association's total assets or total capital; investment portfolios under this amount would not be subject to annual risk assessments.

Final § 615.5133(e)(4) requires institutions to implement effective internal audit programs to review, at least annually, their investment management functions, controls, processes, and compliance with FCA regulations. The scope of the annual review must be appropriate for the size, risk, and complexity of the investment portfolio. Thus, while the final rule retains the annual audit requirement, it provides flexibility in determining the scope of the audit.

While the final rule allows for flexibility depending on the nature of an institution's investment portfolio, there is no bright line de minimis portfolio size that would permit an institution not to engage in risk assessment. As stated above, an association must comply with all the requirements in § 615.5133 if the level or type of its investments could expose its capital to material loss. Each association must have the ability to manage the investments that it holds.

In addition to the regulatory requirements in § 615.5133(e)(4), the guidance provided in BL–064 continues to be relevant for institutions in their development of internal audit processes.

5. Section 615.5133(f)—Due Diligence

As proposed, the final rule adds a new § 615.5133(f) that covers due diligence. This provision combines in one location the requirements governing securities valuation and those governing stress testing that are in existing § 615.5133(f) and § 615.5141, respectively.

In addition to the substantive changes to specific provisions, which we discuss below, we make extensive organizational and technical changes to make the structure and approach of this rule more similar to the rule governing Farmer Mac. We also make a number of minor technical and non-substantive changes to clarify the requirements.

a. Section 615.5133(f)(1)(i)—Eligibility, Purpose, and Compliance with Investment Policies

Proposed § 615.5133(f)(1) would have required a System institution, before it purchased an investment, to conduct sufficient due diligence to determine whether the investment was eligible and ''suitable'' for purchase under its board's investment policies. The institution would have been required to document this assessment.

This proposed requirement is retained in new § 615.5133(f)(1)(i), with minor clarifications. Since we had used the term ''suitable'' to mean an investment complied with the board's investment policies, we simplify the regulation by eliminating that term and instead requiring that an institution determine whether an investment complies with those policies. We also clarify that an institution must determine whether an investment is for an authorized purpose.

The Council and a bank commented that eligibility and the other pre-purchase assessments are often established for a class or segment of securities by specifying the criteria (credit risk, liquidity, market risk, etc.) that make a class of securities eligible and suitable per se, and they requested clarification that these pre-purchase assessments may be defined for segments or classes of securities that meet appropriate criteria rather than on a security-by-security basis. We note that the regulation does not prohibit the establishment of criteria for various classes or segments of investments, as long as an institution adequately documents its assessments.

We also added a sentence to § 615.5133(f)(1)(i) specifically authorizing an institution, with board approval, to hold investments that do not comply with its investment policies. This addition recognizes that such decisions are within the discretion of the board's business judgment.[14] This provision does not authorize the board to approve investments that do not comply with our regulatory eligibility requirements and purpose limitations.

b. Section 615.5133(f)(1)(ii)—Valuation

Existing § 615.5133(f)(1) requires a System institution to verify the value of a security that it plans to purchase, other than a new issue, with a source that is independent of the broker, dealer, counterparty, or other intermediary to the transaction. We proposed no substantive changes to the requirement.

The Council objected to this existing requirement, commenting that verifying value from an independent source is not realistic for investments of tranches of collateralized mortgage obligations, including planned amortization class bonds, purchased in the primary market. The Council stated that these securities are generally unique in nature and their value, when newly created, will be impossible to verify with a third party prior to purchase.

In response, we reiterate that the third party pre-purchase valuation requirement explicitly excludes new issues. Accordingly, institutions need not seek third party pre-purchase valuation for new issues.

This valuation requirement and exclusion for new issues is retained in new § 615.5133(f)(1)(ii).

c. Section 615.5133(f)(1)(iii)—Risk Assessment

Like proposed § 615.5133(f)(1), new § 615.5133(f)(1)(iii) provides that an institution's assessment of each investment at the time of purchase must at a minimum include an evaluation of credit risk, liquidity risk, market risk, interest rate risk, and the underlying collateral of the investment.

The Council, a bank, and an association commented that while a comprehensive level of due diligence is appropriate for more risky and complex instruments such as mortgage-backed securities (MBS), such due diligence would be excessive and burdensome for instruments such as Treasury securities, federal funds investments, short-term commercial paper, discount notes, bullet bonds, and other less complex

[14] This authority incorporates and broadens proposed § 615.5133(f)(2)(i), which would have permitted an institution, with board approval, to purchase an investment that exceeds the stress-test parameters defined in its board policy.

and less risky securities. To ensure that we do not require more due diligence than is necessary, we add a provision that an institution's risk assessment must be commensurate with the complexity and risk in the investment.

The final rule specifies the risks that must be assessed but does not specify how these risks must be assessed. We explain in this preamble our expectations for how System institutions should assess their risk.

In their assessment of credit risk, System institutions should consider the nature and type of underlying collateral, credit enhancements, complexity of structure, and any other available indicators of the risk of default.

In their assessment of liquidity risk, System institutions should consider the investment structure, depth of the market, and ability to liquidate the position under a variety of economic scenarios and market conditions.

In their assessment of market risk, System institutions should consider how various market stress scenarios including, at a minimum, potential changes in interest rates and market conditions (such as market perceptions of creditworthiness), are likely to affect the cash flow and price of the instrument.

Proposed § 615.5133(f)(2) had required institutions to stress test all investments at the time of purchase. Commenters stated that while a pre-purchase stress-testing requirement is appropriate for complex securities such as MBS, asset-backed securities (ABS), and other non-Government guaranteed investments, it is inappropriate to require pre-purchase stress testing on instruments with low price sensitivity, such as Government-guaranteed investments and non-amortizing, bullet-type investments maturing within 1 year. Moreover, an association requested the establishment of a de minimis limit for stress testing even of higher-risk, more complex securities.

We agree that stress testing lower risk, less complex investments, such as overnight securities and commercial paper, may not provide value and may create excessive burden. Accordingly, final § 615.5133(f)(1)(iii) requires an institution to stress test before purchase only investments that are structured or that have uncertain cash flows, including all MBS and ABS. The stress test must be commensurate with the risk and complexity of the investment and must enable the institution to determine that the investment does not expose its capital, earnings, and liquidity to risks that exceed the risks specified in its investment policies.[15] The stress testing must comply with the requirements governing quarterly stress testing, which are discussed below.

We do not establish a de minimis amount below which stress testing need not be performed, because we believe that all high-risk, complex instruments must be stress tested. We note that final § 615.5133(f)(4) requires stress tests to be comprehensive and appropriate for the risk profile of each institution. Moreover, that provision also requires that the methodology an institution uses be appropriate for the complexity, structure, and cash flow of the investments in its portfolio.

d. Section 615.5133(f)(2)—Ongoing Value Determination

We retain the requirements of the first sentence of existing § 615.5133(f)(2), with slight wording changes.

e. Section 615.5133(f)(3)—Ongoing Analysis of Credit Risk

We move the second sentence of existing § 615.5133(f)(2) to § 615.5133(f)(3), with several changes. First, we delete the existing ongoing requirement to evaluate price sensitivity to market interest rates because that is adequately addressed in final § 615.5180(c)(3). Second, rather than requiring institutions to evaluate credit quality, we are requiring institutions to establish and maintain processes to monitor and evaluate changes in credit quality. Finally, we are retaining the existing requirement that institutions must analyze credit risk on an ongoing basis, rather than monthly, as we had proposed.

An association stated that it supported the proposed requirement to evaluate the credit quality of investments, provided fixed-rate, Government-guaranteed investments are excluded. We do not exclude these investments from this requirement because, like any other investments, the credit quality of Government-guaranteed investments can change over time.

f. Section 615.5133(f)(4)—Quarterly Stress Testing

Final § 615.5133(f)(4)(i) imposes requirements regarding quarterly stress testing. The technical changes we made from proposed § 615.5133(f)(2)(ii) are not material. These changes consist of clarifying the language and relocating language from proposed § 615.5133(f)(2)(iii) that is more logically located here.

[15] As part of reorganizing the final rule, we relocated this requirement from proposed § 615.5133(f)(2)(iii).

One of the bank commenters agreed that a properly structured and documented quarterly stress test can provide useful information on capital, earnings, and liquidity risk relative to changes in market value of the entire portfolio, and it stated that the parameters an individual institution sets for the quarterly stress-testing analysis of its entire investment portfolio as a whole should be sufficient to analyze the level of risk contributed by investments.

We do not believe that stress testing an institution's entire portfolio as a whole is sufficient to analyze the risk of investments. It is critical to know individual results. Otherwise, risks could be offsetting each other, resulting in a portfolio-wide test that shows little risk, yet has pockets of investments that may exhibit significant risk. Accordingly, both proposed § 615.5133(f)(2)(ii) and final § 615.5133(f)(4)(i) require institutions to stress test their entire investment portfolio, including stress tests of all investments individually and stress tests of the portfolio as a whole.

Final § 615.5133(f)(4)(ii) sets forth a methodology that applies to both pre-purchase and quarterly stress testing. Except for minor technical changes, it is identical to proposed § 615.5133(f)(2)(iii).

As proposed, because all banks currently use the alternative stress test and the Council believes that they have the capability and sophistication to develop their own stress test processes, we eliminate the existing standardized stress test option.

g. Section 615.5133(f)(5)—Presale Value Verification

We redesignate existing § 615.5133(f)(3) as § 615.5133(f)(5) and change the word ''security'' to ''investment.''

6. Section 615.5133(g)—Reports to the Board of Directors

We proposed revisions to § 615.5133(g), which specifies information that management must report to the board or a board committee each quarter. Proposed § 615.5133(g)(1) retained the general quarterly reporting requirements from existing § 615.5133(g) but added to and modified them to strengthen the overall reporting requirements.

The Council and a bank commented that the board reporting requirements were exceedingly prescriptive and limiting of the board's authority to direct management, and they requested that the provisions be generalized and simply require that the board receive a

quarterly report containing information on the investment portfolio as the board deems appropriate.

With one exception that we discuss below and minor technical changes, we are finalizing all of the general quarterly reporting requirements of § 615.5133(g)(1) (redesignated as § 615.5133(g)) that we proposed. We believe this level of reporting is necessary to ensure an institution's board has the information it needs about the institution's investments. The one proposed requirement that we are not adopting in final § 615.5133(g) is that we are not requiring institutions to report on the results of their quarterly stress tests. We expect, however, that institutions will report on stress tests results that do not comply with their investment policies.

We are including in final § 615.5133(g) the reporting requirements that were contained in proposed § 615.5143(c), governing management of ineligible investments, because we believe it is more logical to have all board reporting requirements in one provision of the regulations. We make technical, but not substantive, changes to these requirements.

Proposed § 615.5133(g)(2) would have required an institution to provide immediate notification to its board of directors or to a designated board committee if its portfolio exceeded the quarterly stress-test parameters defined in its board policy. The Council expressed concern that the term ''immediate'' is vague, and it requested that FCA require notification to be completed ''in a reasonable manner'' as the board may direct.

Since exceeding a board policy's stress test parameters is not a regulatory violation, we have decided not to require board notification if this occurs. Nevertheless, we encourage each institution's board to require that it be notified of such a situation, because it could lead to serious risk exposures for the institution.

7. Investment Plan and Investment Oversight Committee

Our proposed rule recommended, but did not propose to require, that institutions develop an investment plan and an investment oversight committee. Three commenters opposed a requirement for an investment plan or investment committee, stating that institutions' current practices already achieve the purposes of the plans and committees. Because this may be true for some institutions, we do not impose these as requirements. We continue to believe, however, that each institution that maintains an investment portfolio should consider whether it could benefit from the development of an investment plan and the establishment of an investment committee. The preamble to our proposed rule discusses the benefits of these plans and committees. We also note that the Federal Reserve published a proposed rule (77 FR 594, January 5, 2012) that would require publicly traded bank holding companies with total consolidated assets of $10 billion or more to establish and maintain an enterprise-wide risk committee of the board of directors. Some System banks have already begun to or have implemented such committees.

D. Section 615.5135—Management of Interest Rate Risk

We are relocating the requirements of existing § 615.5135 to revised § 615.5180 in part 615 subpart G of our regulations, because we had other interest rate risk requirements in subpart G and it was logical to locate all of these requirements together. We will discuss the changes made to § 615.5180, and to other provisions in subpart G, below.

E. Section 615.5136—Emergencies Impeding Normal Access of Farm Credit Banks to Capital Markets

Final § 615.5136, which is very similar to what we proposed, provides that an emergency shall be deemed to exist whenever a financial, economic, agricultural, or national defense, or other crisis could impede the normal access of Farm Credit banks to the capital markets. Whenever the FCA determines, after consultations with the Funding Corporation to the extent practicable, that such an emergency exists, the FCA Board may, in its sole discretion, adopt a resolution that:

- Modifies the amount, qualities, and types of eligible investments that banks are authorized to hold pursuant to § 615.5132;
- Modifies or waives the liquidity requirement(s) in § 615.5134; and/or
- Authorizes other actions as deemed appropriate.

The revisions in our proposal, which we itemized in the preamble to the proposed rule, provide additional flexibility to the resolution that the FCA Board may adopt. The Council supported these revisions. The final rule adds the catch-all ''other crisis'' that could impede normal access to the capital markets.

F. Section 615.5140—Eligible Investments

We make only minor technical changes to this provision. We delete the reference to divestiture in existing § 615.5140(a)(4), because we no longer require divestiture of investments that were eligible when purchased, and the treatment of investments that were ineligible when purchased is specified in § 615.5143(a). We also delete the references to stress testing mortgage securities in existing § 615.5140(a)(5), because new § 615.5133(f) sets forth stress-testing requirements for investments. Finally, we make a slight formatting change to § 615.5140(a) to clarify its requirements.

G. Section 615.5141—Stress Tests for Mortgage Securities

As proposed, we remove this stand-alone, stress-testing section from our regulations, because we have included stress-testing requirements in final § 615.5133(f)(1)(iii) and (f)(4).

H. Section 615.5143—Management of Ineligible Investments and Reservation of Authority To Require Divestiture

Existing § 615.5143 requires an institution to dispose of an investment that is ineligible[16] within 6 months unless we approve, in writing, a plan that authorizes the institution to divest the instrument over a longer period of time.

New § 615.5143(b) no longer requires a System institution to divest of (or to receive approval of a divestiture plan for) an investment that was eligible when purchased but no longer satisfies the eligibility criteria.[17] Rather, the institution must notify the FCA within 15 calendar days of determining that the investment no longer satisfies eligibility criteria. This approach provides institutions with greater flexibility to manage their positions and mitigate losses as compared with a forced divestiture during a specified time period. Two commenters supported this change to our overall approach.

The proposed rule would have required an institution to notify FCA ''promptly'' if an investment no longer satisfies the eligibility criteria. The Council commented that it was unsure what ''prompt'' meant in the context of the rule, and it stated that notification is redundant and unnecessary given the requirements of the regulation and the ongoing nature of the FCA's examination function. If FCA retained this requirement, the Council suggested a 60-day calendar notice.

In response to this comment, we make the notification period 15 calendar days after the System institution determines

[16] Under existing § 615.5140.

[17] Such an investment would no longer be considered ''ineligible.''

that the investment no longer satisfies the eligibility criteria. We believe this notification period is adequate, since the timeframe does not begin until the System institution makes the determination. Moreover, notification can be as simple as a telephone call or email.

In addition, in the final rule as in the proposed, the institution is subject to the following requirements:

- It must not use the investment to satisfy its liquidity requirement(s) under § 615.5134;
- It must continue to include the investment in the § 615.5132 investment portfolio limit calculation;
- It may continue to include the investment as collateral under § 615.5050 and net collateral under § 615.5301(c) at the lower of cost or market value; and
- It must develop a plan to reduce the risk arising from the investment.

The proposed rule would have required notification to FCA when an investment that satisfied the regulatory eligibility criteria was not suitable because it did not satisfy the risk tolerance established in the institution's required board policy, and the investment would have been subject to requirements regarding exclusion from the liquidity reserve, inclusion in the investment portfolio limit, inclusion in collateral and net collateral, and the development of a risk reduction plan. We are deleting this notification requirement, as well as the other requirements, from the final rule because we do not want to create a disincentive for a System institution to establish a risk tolerance that is stricter than FCA's regulatory eligibility criteria. Under the final rule, a System institution does not have to notify the FCA when an investment that satisfies FCA's regulatory eligibility criteria does not satisfy its own risk tolerance, nor is the investment subject to the other requirements.

As we proposed, final § 615.5143(a) provides that an investment that does not satisfy the regulatory eligibility criteria at the time of purchase is ineligible. Under the final rule (as under the existing regulation), System institutions may not purchase ineligible investments. If a System institution does purchase an ineligible investment, it must notify the FCA within 15 calendar days after determining that the investment was ineligible and must divest of the investment no later than 60 calendar days after the determination unless we approve, in writing, a plan that authorizes divestiture over a longer period of time. In addition, in the final rule as in the proposed, until the institution divests of the investment:

- It must not be used to satisfy the institution's liquidity requirement(s) under § 615.5134;
- It must continue to be included in the § 615.5132 investment portfolio limit calculation; and
- It must be excluded as collateral under § 615.5050 and net collateral under § 615.5301(c).

Although it is not stated in the regulation, we clarify here than an acceptable divestiture plan would have to require a System institution to dispose of the investment as quickly as possible without substantial financial loss. The plan would also have to contain sufficient analysis to support retention of the investment, including its effect on the institution's capital, earnings, liquidity, and collateral position. Our decision would not be based solely on financial loss and would include consideration of all circumstances surrounding the purchase.

In addition, we emphasize that any purchase of an ineligible investment would indicate weaknesses in a System institution's internal controls and due diligence and would trigger increased FCA oversight if it occurs. We expect such a purchase to occur rarely, if ever. For this reason, we are retaining the divestiture requirements from the existing and proposed rules, despite the Council's and a bank commenter's request that we treat investments that are ineligible when purchased in the same manner as we treat investments that are eligible when purchased but that subsequently fail to meet the eligibility criteria. Furthermore, in response to the Council's comment that this provision essentially authorizes System institutions to purchase ineligible investments that could be held for 60 calendar days, we emphasize that this provision does not authorize such a purchase. As stated, if a System institution makes such a purchase, it should expect increased FCA oversight of its internal controls and due diligence process as well as enforcement actions as appropriate.

Proposed § 615.5143(c) would have required each institution to report to its board at least quarterly regarding investments that were ineligible when purchased and investments that were eligible when purchased but that no longer satisfy the eligibility criteria. As discussed above, we have moved these reporting requirements to § 615.5133(g) so that all board reporting requirements for investments are in one place.

Finally, § 615.5143(d) reserves FCA's authority to require an institution to divest of any investment at any time for failure to comply with § 615.5132(a) or § 615.5142 (as applicable) or for safety and soundness purposes. Although we did not propose failure to comply with the permissible investment purposes specified in § 615.5132(a) and § 615.5142 as a basis for requiring divestiture, this change merely makes explicit our implicit authority to require divestiture of an investment that does not comply with our investment regulations. The timeframe FCA sets would consider the expected loss on the transaction (or transactions) and the effect on a System institution's financial condition and performance. Because the final rule would not require divestiture of any investment that was eligible when purchased, FCA is making express our authority to require divestiture of investments when necessary. We received no comments on our proposed reservation of authority.

I. Section 615.5174—Farmer Mac Securities

We proposed changes to § 615.5174(d), governing stress testing of Farmer Mac securities, which Farm Credit banks, associations, and service corporations are permitted to purchase and hold for the purpose of managing credit and interest rate risk and furthering their mission to finance agriculture. For the reason discussed in the preamble to the proposed rule, we proposed to remove the requirement that a System institution must subject Farmer Mac securities backed by loans that the institution originated to the stress testing applicable to investments. If a System institution purchases a Farmer Mac security from another System institution or from outside the System, however, the security would remain subject to the stress testing applicable to investments. Because we proposed to eliminate our divestiture requirement for other investments that fail a stress test, we also proposed to eliminate that divestiture requirement for those Farmer Mac securities that remain subject to stress testing.

We also added a definition of the term ''you'' in new § 615.5174(e), to clarify that the regulation applies to Farm Credit banks, associations, and service corporations.

We received two comments on § 615.5174, both supporting the stress-testing change, and we are finalizing § 615.5174 as proposed.

J. Section 615.5180—Bank Interest Rate Risk Management Program

We are revising § 615.5180 by moving the requirements of existing § 615.5135 and existing § 615.5181 into this

section. Since all three existing sections govern interest rate risk management of banks, it makes sense to combine them into one regulatory provision.

Interest rate risk management is an important part of the overall financial management of a Farm Credit bank. The potentially adverse effects that interest rate risk may have on net interest income and the market value of equity is of particular importance.

We believe that strong policy direction from a Farm Credit bank's board of directors is essential to an effective interest rate risk management program. Accordingly, final § 615.5180(a) retains the existing requirement, currently contained in § 615.5180, that a bank's board must develop and implement an interest rate risk management program, tailored to the needs of the institution, that establishes a risk management process that effectively identifies, measures, monitors, and controls interest rate risk. Final § 615.5180(a) also contains the requirement, currently contained in § 615.5181(a), that the bank's board of directors must be knowledgeable of the nature and level of interest rate risk taken by the institution.

Final § 615.5180(b) contains the requirement, currently in § 615.5181(b), that senior management is responsible for ensuring that interest rate risk is properly managed on both a long-range and a day-to-day basis.

Final § 615.5180(c), which requires the board of directors of each bank to adopt an interest rate risk management section of an asset/liability management policy that establishes interest rate risk exposure limits as well as the criteria to determine compliance with these limits, contains the requirements we had proposed in § 615.5135, as revised. Final § 615.5180(c) requires, in addition to the existing requirements that carry over, that the interest rate risk management section must establish policies and procedures for the bank to:

- Address the purpose and objectives of interest rate risk management;
- Consider the effect of investments on interest rate risk based on the results of the required stress testing; [18]
- Identify exception parameters and approvals needed for any exceptions to the requirements of the board's policies;
- Describe delegations of authority;
- Describe reporting requirements, including exceptions to limits contained in the board's policies; and
- Consider the nature and purpose of derivative contracts and establish counterparty risk thresholds and limits for derivatives.

We delete several existing requirements because similar requirements are also contained in the board reporting requirements of § 615.5133(g).

We are finalizing our proposal to require that management of each bank must report at least quarterly to its board of directors, or to a designated committee of the board, describing the nature and level of interest rate risk exposure. Any deviations from the board's policies on interest rate risk must be specifically identified in the report and approved by the board or a designated committee of the board.

The Council generally supported the proposed changes to the rule, but it was concerned that FCA would implement the additional requirements in a way that results in additional burden in areas where such burden is not supported by identified weaknesses in current System interest rate risk management practices. The Council stated that this area has functioned exceedingly well over the years, including throughout the recent financial market crisis, and it asked that FCA recognize this effectiveness.

We recognize that overall, the System has implemented effective interest rate risk management practices. We believe our revisions to this rule will further strengthen these practices. We do not intend to impose additional burden in implementation unless that burden is warranted.

K. Section 615.5181—Bank Interest Rate Risk Management Program

We remove this section from our regulations, because we have included these requirements in final § 615.5180.

L. Section 615.5182—Interest Rate Risk Management by Associations and Other Farm Credit System Institutions Other Than Banks

We made minor technical, non-substantive changes to this provision.

M. Section 615.5201—Definitions

As discussed above, our capital adequacy regulation at § 615.5201 defines the terms Government agency and Government-sponsored agency. We agree with the Council's comment that FCA's definitions should be consistent among themselves. Accordingly, we are revising the definitions in § 615.5201 to conform to the new definitions in § 615.5131.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

■ 2. Section 615.5131 is amended by:

■ a. Removing designations for paragraphs (a) through (l) and maintaining alphabetical order;

■ b. Removing the reference to ''615.5131(h)'' from the definition for ''asset-backed securities (ABS)'' and adding in its place the words ''this section''; and

■ c. Adding in alphabetical order definitions for ''government agency'' and ''government-sponsored agency'' to read as follows:

§ 615.5131 Definitions.

* * * * *

Government agency means the United States Government or an agency, instrumentality, or corporation of the United States Government whose obligations are fully and explicitly insured or guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government.

Government-sponsored agency means an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the

[18] Existing § 615.5135 already requires banks to include investments in their interest rate shock analysis.

United States Congress but whose obligations are not fully and explicitly insured or guaranteed by the full faith and credit of the United States Government, including but not limited to any Government-sponsored enterprise.

* * * * *

■ 3. Section 615.5132 is revised to read as follows:

§ 615.5132 Investment purposes.

(a) Each Farm Credit bank may hold eligible investments, listed under § 615.5140, in an amount not to exceed 35 percent of its total outstanding loans, to comply with its liquidity requirements in § 615.5134, manage surplus short-term funds, and manage interest rate risk under § 615.5180. To comply with this calculation, the 30-day average daily balance of investments is divided by loans. Investments are calculated at amortized cost. Loans are calculated as defined in § 615.5131. For the purpose of this calculation, loans include accrued interest and do not include any allowance for loan loss adjustments. Compliance with the calculation is measured on the last day of every month.

(b) The following investments may be excluded when calculating the amount of eligible investments held by the Farm Credit bank pursuant to § 615.5132(a):

(1) Eligible investments listed under § 615.5140 that are pledged by a Farm Credit bank to meet margin requirements for derivative transactions; and

(2) Any other investments FCA determines are appropriate for exclusion.

■ 4. Section 615.5133 is revised to read as follows:

§ 615.5133 Investment management.

(a) *Responsibilities of board of directors.* Your board of directors must adopt written policies for managing your investment activities. Your board must also ensure that management complies with these policies and that appropriate internal controls are in place to prevent loss. At least annually, the board, or a designated committee of the board, must review the sufficiency of these investment policies. Any changes to the policies must be adopted by the board and be documented.

(b) *Investment policies—general requirements.* Your board's written investment policies must address the purposes and objectives of investments; risk tolerance; delegations of authority; internal controls; due diligence; and reporting requirements. Moreover, your investment policies must fully address the extent of pre-purchase analysis that management must perform for various classes of investments. Furthermore, your investment policies must address the means for reporting, and approvals needed for, exceptions to established policies. Investment policies must be sufficiently detailed, consistent with, and appropriate for the amounts, types, and risk characteristics of your investments.

(c) *Investment policies—risk tolerance.* Your investment policies must establish risk limits for the various types, classes, and sectors of eligible investments and for the entire investment portfolio. These policies must include concentration limits to ensure prudent diversification of credit, market, and liquidity risks in the investment portfolio. Risk limits must be based on all relevant factors, including your institutional objectives, capital position, earnings, and quality and reliability of risk management systems and must take into consideration the interest rate risk management program required by § 615.5180 or § 615.5182, as applicable. Your policies must identify the types and quantity of investments that you will hold to achieve your objectives and control credit, market, liquidity, and operational risks. Each association or service corporation that holds significant investments and each bank must establish risk limits in its investment policies for these four types of risk.

(1) *Credit risk.* Investment policies must establish:

(i) *Credit quality standards, limits on counterparty risk, and risk diversification standards that limit concentrations.* Limits must be set for single or related counterparty(ies), a geographical area, industries, and asset classes or obligations with similar characteristics.

(ii) *Criteria for selecting brokers, dealers, and investment bankers (collectively, securities firms).* You must buy and sell eligible investments with more than one securities firm. As part of your review of your investment policies required under paragraph (a) of this section, your board of directors, or a designated committee of the board, must review the criteria for selecting securities firms. Any changes to the criteria must be approved by the board.

(iii) *Collateral margin requirements on repurchase agreements.* You must regularly mark the collateral to market and ensure appropriate controls are maintained over collateral held.

(2) *Market risk.* Investment policies must set market risk limits for specific types of investments and for the investment portfolio.

(3) *Liquidity risk.* Investment policies must describe the liquidity characteristics of eligible investments that you will hold to meet your liquidity needs and other institutional objectives.

(4) *Operational risk.* Investment policies must address operational risks, including delegations of authority and internal controls in accordance with paragraphs (d) and (e) of this section.

(d) *Delegation of authority.* All delegations of authority to specified personnel or committees must state the extent of management's authority and responsibilities for investments.

(e) *Internal controls.* You must:

(1) Establish appropriate internal controls to detect and prevent loss, fraud, embezzlement, conflicts of interest, and unauthorized investments.

(2) Establish and maintain a separation of duties between personnel who supervise or execute investment transactions and personnel who supervise or engage in all other investment-related functions.

(3) Maintain records and management information systems that are appropriate for the level and complexity of your investment activities.

(4) Implement an effective internal audit program to review, at least annually, your investment management function, controls, processes, and compliance with FCA regulations. The scope of the annual review must be appropriate for the size, risk and complexity of the investment portfolio.

(f) *Due diligence*—(1) *Pre-purchase analysis.* (i) *Eligibility, purpose, and compliance with investment policies.* Before you purchase an investment, you must conduct sufficient due diligence to determine whether it is eligible under § 615.5140, is for an authorized purpose under § 615.5132 or § 615.5142, as applicable, and complies with your board's investment policies. You must document your assessment and the information used in your assessment. Your board must approve your decision to hold an investment that does not comply with your investment policies.

(ii) *Valuation.* Prior to purchase, you must verify the value of the investment (unless it is a new issue) with a source that is independent of the broker, dealer, counterparty or other intermediary to the transaction.

(iii) *Risk assessment.* Your assessment of each investment at the time of purchase must at a minimum include an evaluation of credit risk, liquidity risk, market risk, interest rate risk, and the underlying collateral of the investment. This assessment must be commensurate with the complexity and risk in the

investment. You must perform stress testing on any investment that is structured or that has uncertain cash flows, including all mortgage-backed securities and asset-backed securities, before you purchase it. The stress test must be commensurate with the risk and complexity of the investment and must enable you to determine that the investment does not expose your capital, earnings, or liquidity to risks that are greater than those specified in your investment policies. The stress testing must comply with the requirements in paragraph (f)(4)(ii) of this section.

(2) *Ongoing value determination.* At least monthly, you must determine the fair market value of each investment in your portfolio and the fair market value of your whole investment portfolio.

(3) *Ongoing analysis of credit risk.* You must establish and maintain processes to monitor and evaluate changes in the credit quality of each investment in your portfolio and in your whole investment portfolio on an ongoing basis.

(4) *Quarterly stress testing.* (i) You must stress test your entire investment portfolio, including stress tests of all investments individually and stress tests of the portfolio as a whole, at the end of each quarter. The stress tests must enable you to determine that your investment securities, both individually and on a portfolio-wide basis, do not expose your capital, earnings, or liquidity to risks that exceed the risk tolerance specified in your investment policies. If your portfolio risk exceeds your investment policy limits, you must develop a plan to comply with those limits.

(ii) Your stress tests must be defined in a board-approved policy and must include defined parameters for the types of securities you purchase. The stress tests must be comprehensive and appropriate for the risk profile of your institution. At a minimum, the stress tests must be able to measure the price sensitivity of investments over a range of possible interest rate/yield curve scenarios. The methodology that you use to analyze investment securities must be appropriate for the complexity, structure, and cash flows of the investments in your portfolio. You must rely to the maximum extent practicable on verifiable information to support all your assumptions, including prepayment and interest rate volatility assumptions, when you apply your stress tests. You must document the basis for all assumptions that you use to evaluate the security and its underlying collateral. You must also document all subsequent changes in your assumptions.

(5) *Presale value verification.* Before you sell an investment, you must verify its value with a source that is independent of the broker, dealer, counterparty, or other intermediary to the transaction.

(g) *Reports to the board of directors.* At least quarterly, your management must report on the following to your board of directors or a designated board committee:

(1) Plans and strategies for achieving the board's objectives for the investment portfolio;

(2) Whether the investment portfolio effectively achieves the board's objectives;

(3) The current composition, quality, and liquidity profile of the investment portfolio;

(4) The performance of each class of investments and the entire investment portfolio, including all gains and losses realized during the quarter on individual investments that you sold before maturity and why they were liquidated;

(5) Potential risk exposure to changes in market interest rates as identified through quarterly stress testing and any other factors that may affect the value of your investment holdings;

(6) How investments affect your capital, earnings, and overall financial condition;

(7) Any deviations from the board's policies (must be specifically identified);

(8) The status and performance of each investment described in § 615.5143(a) and (b) or that does not comply with your investment policies; including the expected effect of these investments on your capital, earnings, liquidity, and collateral position; and

(9) The terms and status of any required divestiture plan or risk reduction plan.

§ 615.5135 [Removed]

■ 5. Section 615.5135 is removed.

■ 6. Section 615.5136 is revised to read as follows:

§ 615.5136 Emergencies impeding normal access of Farm Credit banks to capital markets.

An emergency shall be deemed to exist whenever a financial, economic, agricultural, national defense, or other crisis could impede the normal access of Farm Credit banks to the capital markets. Whenever the Farm Credit Administration determines, after consultation with the Federal Farm Credit Banks Funding Corporation to the extent practicable, that such an emergency exists, the Farm Credit Administration Board may, in its sole discretion, adopt a resolution that:

(a) Modifies the amount, qualities, and types of eligible investments that Farm Credit banks are authorized to hold pursuant to § 615.5132 of this subpart;

(b) Modifies or waives the liquidity requirement(s) in § 615.5134 of this subpart; and/or

(c) Authorizes other actions as deemed appropriate.

■ 7. Section 615.5140 is amended by revising paragraph (a) to read as follows:

§ 615.5140 Eligible investments.

(a) You may hold only the following types of investments listed in the Investment Eligibility Criteria Table. These investments must be denominated in United States dollars.

INVESTMENT ELIGIBILITY CRITERIA TABLE

Asset class	Final maturity limit	NRSRO Credit rating	Other requirements	Investment portfolio limit
(1) Obligations of the United States. • Treasuries. • Agency securities (except mortgage securities). • Other obligations fully insured or guaranteed by the United States, its agencies, instrumentalities and corporations.	None	NA	None	None.

INVESTMENT ELIGIBILITY CRITERIA TABLE—Continued

Asset class	Final maturity limit	NRSRO Credit rating	Other requirements	Investment portfolio limit
(2) Municipal Securities:				
• General obligations	10 years	One of the highest two	None	None.
• Revenue bonds	5 years	Highest	At the time of purchase, you must document that the issue is actively traded in an established secondary market.	15%.
(3) International and Multilateral Development Bank Obligations.	None	None	The United States must be a voting shareholder.	None.
(4) Money Market Instruments:				
• Federal funds	1 day or continuously callable up to 100 days.	One of the two highest short-term.	None	None.
• Negotiable certificates of deposit.	1 year	One of the two highest short-term.	None	None.
• Bankers acceptances	None	One of the two highest short-term.	Issued by a depository institution.	None.
• Commercial paper	270 days	Highest short-term	None	None.
• Non-callable Term Federal funds and Eurodollar time deposits.	100 days	Highest short-term	None	20%.
• Master notes	270 days	Highest short-term	None	20%.
• Repurchase agreements collateralized by eligible investments or marketable securities rated in the highest credit rating category by an NRSRO.	100 days	NA	None	None.
(5) Mortgage Securities:				
• Issued or guaranteed by the United States.	None	NA	None	None.
• Fannie Mae or Freddie Mac mortgage securities.	None	NA	None	50%.
• Non-Agency securities that comply 15 U.S.C. 77d(5) or 15 U.S.C. 78c(a)(41).	None	Highest	None	15%.
• Commercial mortgage-backed securities.	None	Highest	• Security must be backed by a minimum of 100 loans. • Loans from a single mortgagor cannot exceed 5% of the pool. • Pool must be geographically diversified pursuant to the board's policy.	
(6) Asset-Backed Securities secured by. • Credit card receivables. • Automobile loans. • Home equity loans. • Wholesale automobile dealer loans. • Student loans. • Equipment loans. • Manufactured housing loans.	None	Highest	5-year WAL for fixed rate or floating rate ABS at their contractual interest rate caps. 7-year WAL for floating rate ABS that remain below their contractual interest rate cap.	20%.
(7) Corporate Debt Securities.	5 years	One of the two highest	Cannot be convertible to equity securities.	20%.

INVESTMENT ELIGIBILITY CRITERIA TABLE—Continued

Asset class	Final maturity limit	NRSRO Credit rating	Other requirements	Investment portfolio limit
(8) Diversified Investment Funds. Shares of an investment company registered under section 8 of the Investment Company Act of 1940.	NA	NA	The portfolio of the investment company must consist solely of eligible investments authorized by §§ 615.5140 and 615.5174. The investment company's risk and return objectives and use of derivatives must be consistent with FCA guidance and your investment policies.	None, if your shares in each investment company comprise 10% or less of your portfolio. Otherwise counts toward limit for each type of investment.

* * * * *

§ 615.5141 [Removed]

■ 8. Section 615.5141 is removed.

■ 9. Section 615.5143 is revised to read as follows:

§ 615.5143 Management of ineligible investments and reservation of authority to require divestiture.

(a) *Investments ineligible when purchased.* Investments that do not satisfy the eligibility criteria set forth in § 615.5140 at the time of purchase are ineligible. You must not purchase ineligible investments. If you determine that you have purchased an ineligible investment, you must notify us within 15 calendar days after the determination. You must divest of the investment no later than 60 calendar days after you determine that the investment is ineligible unless we approve, in writing, a plan that authorizes you to divest the investment over a longer period of time. Until you divest of the investment:

(1) It must not be used to satisfy your liquidity requirement(s) under § 615.5134;

(2) It must continue to be included in the § 615.5132 investment portfolio limit calculation; and

(3) It must be excluded as collateral under § 615.5050 and net collateral under § 615.5301(c).

(b) *Investments that no longer satisfy eligibility criteria.* If you determine that an investment (that satisfied the eligibility criteria set forth in § 615.5140 when purchased) no longer satisfies the eligibility criteria, you may continue to hold it, subject to the following requirements:

(1) You must notify us within 15 calendar days after such determination;

(2) You must not use the investment to satisfy your liquidity requirement(s) under § 615.5134;

(3) You must continue to include the investment in the § 615.5132 investment portfolio limit calculation;

(4) You may continue to include the investment as collateral under § 615.5050 and net collateral under § 615.5301(c) at the lower of cost or market value; and

(5) You must develop a plan to reduce the investment's risk to you.

(c) *Reservation of authority.* FCA retains the authority to require you to divest of any investment at any time for failure to comply with § 615.5132(a) or § 615.5142 or for safety and soundness reasons. The timeframe set by FCA will consider the expected loss on the transaction (or transactions) and the effect on your financial condition and performance.

■ 10. Section 615.5174 is amended by:

■ a. Removing the reference ''615.5131(f)'' in paragraph (a) and adding in its place, the reference ''615.5131'';

■ b. Revising paragraph (d); and

■ c. Adding paragraph (e).

The revision and addition read as follows:

§ 615.5174 Farmer Mac securities.

* * * * *

(d) *Stress Test.* You must perform stress tests, in accordance with § 615.5133(f)(1)(iii) and § 615.5133(f)(4), on mortgage securities, issued or guaranteed by Farmer Mac, that are backed by loans that you did not originate.

(e) *You.* Means a Farm Credit bank, association, or service corporation.

■ 11. Section 615.5180 is revised to read as follows:

§ 615.5180 Bank interest rate risk management program.

(a) The board of directors of each Farm Credit bank must develop, implement, and effectively oversee an interest rate risk management program tailored to the needs of the institution. The program must establish a risk management process that effectively identifies, measures, monitors, and controls interest rate risk. The board of directors of each Farm Credit bank must be knowledgeable of the nature and level of interest rate risk taken by the institution.

(b) Senior management is responsible for ensuring that interest rate risk is properly managed on both a long-range and a day-to-day basis.

(c) The board of directors of each Farm Credit bank must adopt an interest rate risk management section of an asset/liability management policy that establishes interest rate risk exposure limits as well as the criteria to determine compliance with these limits. At a minimum, the interest rate risk management section must establish policies and procedures for the bank to:

(1) Address the purpose and objectives of interest rate risk management;

(2) Identify and analyze the causes of risks within its existing balance sheet structure;

(3) Measure the potential effect of these risks on projected earnings and market values by conducting interest rate shock tests and simulations of multiple economic scenarios at least on a quarterly basis and by considering the effect of investments on interest rate risk based on the results of the stress testing required under § 615.5133(f)(4);

(4) Describe and implement actions needed to obtain its desired risk management objectives;

(5) Identify exception parameters and approvals needed for any exceptions to the requirements of the board's policies;

(6) Describe delegations of authority;

(7) Describe reporting requirements, including exceptions to limits contained in the board's policies;

(8) Consider the nature and purpose of derivative contracts and establish counterparty risk thresholds and limits for derivatives.

(d) At least quarterly, management of each Farm Credit bank must report to its board of directors, or a designated committee of the board, describing the nature and level of interest rate risk

exposure. Any deviations from the board's policy on interest rate risk must be specifically identified in the report and approved by the board or designated committee of the board.

§ 615.5181 [Removed]

■ 12. Section 615.5181 is removed.

■ 13. Section 615.5182 is revised to read as follows:

§ 615.5182 Interest rate risk management by associations and other Farm Credit System institutions other than banks.

Any association or other Farm Credit System institution other than Farm Credit banks, excluding the Federal Agricultural Mortgage Corporation, with interest rate risk that could lead to significant declines in net income or in the market value of capital must comply with the requirements of § 615.5180. The interest rate risk management program required under § 615.5180 must be commensurate with the level of interest rate risk of the institution.

■ 14. Section 615.5201 is amended by revising the definitions for ''government agency'' and ''government-sponsored agency'' to read as follows:

§ 615.5201 Definitions.

* * * * *

Government agency means the United States Government or an agency, instrumentality, or corporation of the United States Government whose obligations are fully and explicitly insured or guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government.

Government-sponsored agency means an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations are not fully and explicitly insured or guaranteed by the full faith and credit of the United States Government, including but not limited to any Government-sponsored enterprise.

* * * * *

Dated: October 25, 2012.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

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FARM CREDIT ADMINISTRATION

12 CFR Part 652

RIN 3052–AC56

Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Farmer Mac Investment Management

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, us, or we) issues this final rule amending our regulations governing investment management practices of the Federal Agricultural Mortgage Corporation (Farmer Mac or Corporation). This final rule will help ensure that Farmer Mac maintains safe and sound non-program investment management practices in accordance with clearly articulated board-established guidance, streamlines the process for handling investments that fail to meet the eligibility criteria after purchase, and modifies the allowable purposes of Farmer Mac's non-program investments to include investments that would complement Farmer Mac's program activities. We are also finalizing the significant reorganization of these regulations that we proposed to make the regulations easier to follow.

DATES: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this final rule is to ensure that Farmer Mac has appropriate Board policies and operational procedures in place to manage its non-program investment portfolio safely and soundly with appropriate consideration of its public mission as a Government-sponsored enterprise (GSE). This final rule will:

- Revise the permissible purposes of non-program investments;
- Revise board policy requirements, including stress-testing requirements;
- Modify the non-program investment portfolio limit;
- Reduce the regulatory burden associated with investments that fail to meet eligibility criteria after purchase; and
- Reorganize the regulations to make them easier to follow.

II. History of Rule

On May 19, 2010, we published an Advanced Notice of Proposed Rulemaking that considered revisions to Farmer Mac's non-program investment and liquidity requirements.[1] On November 18, 2011, we published a Notice of Proposed Rulemaking (NPRM) that would have revised these non-program investment and liquidity requirements.[2] After considering the comments we received on the NPRM, we now plan to finalize the proposed provisions contained in the NPRM in phases.

This first phase of final regulations will substantively revise the following regulations:

- § 652.10—Investment Management
- § 652.15—Non-Program Investment Purposes and Limitation (renumbered from § 652.25)
- § 652.25—Management of Ineligible Investments and Reservation of Authority to Require Divestiture (renumbered from § 652.45)
- § 652.30—Interest Rate Risk Management (renumbered from § 652.15)
- § 652.45—Temporary Regulatory Waivers or Modifications for Extraordinary Situations (renumbered from § 652.30)

These revisions will help ensure that Farmer Mac maintains safe and sound non-program investment management practices in accordance with clearly articulated board-established guidance. They also streamline the process for handling investments that fail to meet the eligibility criteria after purchase and modify the allowable purposes of Farmer Mac's non-program investments to include investments that would complement Farmer Mac's program activities.

We are also making minor technical changes to the following provisions:

- § 652.1—Purpose
- § 652.5—Definitions
- § 652.20—Eligible Non-Program Investments (renumbered from § 652.35)

In addition, we are deleting existing § 652.40, entitled ''Stress Tests for

[1] 75 FR 27951.

[2] 76 FR 71798.

Mortgage Securities,'' and incorporating its provisions into § 652.10(f).

Lastly, we are finalizing the proposed reorganization of the investment management and liquidity regulations to make the sequence of the issues covered more logical.

We intend to address in one or more future rulemakings regulations covering all the areas of the proposed rule not covered in this final rule, including liquidity management and requirements and investment eligibility (including revised creditworthiness requirements). The regulations that we proposed to revise but that we are not issuing as final at this time (except to renumber them and, in some instances, to make minor technical changes) include:

- § 652.5—Definitions
- § 652.20—Eligible Non-Program Investments (renumbered from § 652.35)
- § 652.35—Liquidity Reserve Management and Requirements (renumbered from § 652.20)

III. Guiding Principle of Rule

The FCA is an independent agency in the executive branch of the Federal Government that serves as the regulator of Farmer Mac, as well as of the other institutions of the Farm Credit System (System) including, in pertinent part, Farm Credit banks and direct lender associations. The FCA regulates Farmer Mac through the Office of Secondary Market Oversight (OSMO). Farmer Mac is a stockholder-owned instrumentality of the United States, chartered by Congress to establish a secondary market for agricultural real estate, rural housing mortgage loans, and rural utilities loans. Farmer Mac also provides a secondary market for USDA-guaranteed farm program and rural development loans.

A guiding principle for FCA in establishing regulations governing Farmer Mac is to maintain an appropriate balance between the Corporation's mission achievement and risk. We aim to ensure continuity of operations so that Farmer Mac can fulfill its mission during stressful economic conditions that may require sufficient access to secondary sources of liquidity. This final rule is intended to provide a high degree of certainty that Farmer Mac will be able to continue to serve its customers under a wide range of market or economic conditions without the need to issue debt to the Department of Treasury or seek any other form of Government financial assistance.[3]

IV. Discussion of Comments and Section-by-Section Analysis of Rule

We received comment letters from Farmer Mac and from the Farm Credit Council (Council), which, in addition to submitting a comment letter directly responding to the NPRM, also asked us to consider, wherever applicable, comments it had submitted on FCA's similar proposed rule pertaining to System banks and associations.[4]

In addition to its comments on specific proposed regulation provisions, the Council generally encouraged us to adapt this rule to more closely mirror the requirements for System banks and associations. Although the two final rules continue to differ where appropriate, changes were made to both this rule and the System banks and associations rule to make the requirements more similar.[5]

We will address each specific comment received in our discussion of the regulation provision to which the comment relates. Some of the minor changes we proposed received no comment. Unless otherwise discussed in this preamble, we are finalizing those provisions as proposed without further explanation. Interested persons are directed to our NPRM for a discussion of those changes. Throughout this regulation, we make minor technical, clarifying, and non-substantive language changes that we do not specifically discuss in this preamble.

A. Reorganization of Rule

We are finalizing the rule's reorganization much the way we proposed it. We provide the following table to orient the reader to the reorganization. The left column of the table contains the existing rule's section headings, and the right column contains the proposed reorganization of section sequence and heading changes.

Existing regulations	Final reorganization
§ 652.1 Purpose	§ 652.1 Purpose.
§ 652.5 Definitions	§ 652.5 Definitions.
§ 652.10 Investment management and requirements	§ 652.10 Investment management.
§ 652.15 Interest rate risk management and requirements	§ 652.15 Non-program investment purposes and limitation.
§ 652.20 Liquidity reserve management and requirements	§ 652.20 Eligible non-program investments.
§ 652.25 Non-program investment purposes and limitation	§ 652.25 Management of ineligible investments.
§ 652.30 Temporary regulatory waivers or modifications for extraordinary situations.	§ 652.30 Interest rate risk management.
§ 652.35 Eligible non-program investments	§ 652.35 Liquidity reserve management and requirements.
§ 652.40 Stress tests for mortgage securities	§ 652.40 [Reserved].
§ 652.45 Divestiture of ineligible non-program investments	§ 652.45 Temporary regulatory waivers or modifications for extraordinary situations.

Generally, the reorganization is meant to address sequentially and as completely as possible the three major categories of management governed in the rule: Investment management; interest rate risk management; and liquidity management.

B. Section 652.1—Purpose

We received no comments on our proposal to delete the first sentence of this section as unnecessary, and we adopt the revision as proposed.

C. Section 652.5—Definitions

Many of the definitions we proposed relate to revisions to regulations that will not be finalized until a later installment of this rulemaking, and we will not finalize those definitions until we finalize the regulations to which they relate. We received no comments

[3] Under certain specific adverse circumstances, Farmer Mac is authorized to issue debt to the Department of the Treasury to meet obligations on guarantees. *See* section 8.13 of the Farm Credit Act of 1971, as amended (Act) (12 U.S.C. 2279aa–13).

[4] *See* 76 FR 51289, Aug. 18, 2011.

[5] In the interests of consistency, the FCA Board adopted the final rule governing the investment management of System banks and associations at the same time it adopted this final rule. That final rule is also published in today's issue of the **Federal Register**.

on the proposed technical clarification to the definition of FCA or the proposed definition of OSMO as FCA's Office of Secondary Market Oversight that we proposed, and we adopt these revisions as proposed.

We proposed technical clarifications to the definitions of ''Government agency'' and ''Government-sponsored agency.'' We are finalizing definitions for these terms with additional technical clarifications.

The Council commented that our existing definition of non-program investments, which we did not propose to revise, is overly broad and allows for the holding of investments beyond the regulatory objectives of ensuring safety and soundness and continuity of funding as outlined in § 652.1. It suggested that we modify the definition to clarify that non-program investments are those held for the investment purposes authorized by revised and renumbered § 652.25. We note that as proposed and as discussed above, this final rule deletes the sentence in § 652.1 to which the comment refers. Moreover, the definition of non-program investments does not itself allow for the holding of investments. Rather, Farmer Mac may hold non-program investments only for the permissible investment purposes. Accordingly, we do not change this definition.

D. Section 652.10—Investment Management

Farmer Mac commented that several of the proposed changes to the rule go well beyond establishing a framework for safety and soundness and instead impose FCA's judgment on proper business operations. Our general response is that we revised some of the proposed requirements in the final rule to make them less prescriptive but that we retain some of the proposed requirements, with clarifications. We respond to the comments on specific provisions below.

The Council requested that FCA follow a similar structure and approach for Farmer Mac as it proposed for the System banks and associations in their investment management rule. In the final rule, we revise the structure and approach of this rule. In addition, the structure and approach of the rule governing System banks and associations has also been revised. We believe the structure and approach of the two rules are now more similar; although, where appropriate, differences still exist.

1. § 652.10(a)—Responsibilities of the Board of Directors

The Council commented that the proposed requirement that the board must annually review and ''affirmatively validate'' the sufficiency of its investment policies is overly prescriptive, burdensome, and unclear. We agree that a requirement of annual board review is sufficient and delete ''affirmatively validate'' from the final rule. With the exception of a few minor technical, clarifying, and non-substantive changes, this paragraph is unchanged from the existing rule.

2. § 652.10(b)—Investment Policies—General Requirements

The Council commented that the requirement (an existing requirement for Farmer Mac that had been proposed for System banks and associations) that Farmer Mac must document in its ''records or minutes'' any analyses used in formulating investment policies or amendments is burdensome and does not enhance the investment management process. We agree that specifying minutes as a possible location for this documentation is unnecessary. Accordingly, we are deleting ''or minutes'' from the final rule.

We are moving the requirement (most of which is contained in existing § 652.10(f)(1)) that Farmer Mac's investment policies must fully address the extent of pre-purchase analysis that management must perform for various types, classes, and structure of investments from proposed § 652.10(f)(1)(i) to this paragraph because it is a more logical location.

With these exceptions, we are adopting § 652.10(b) as proposed, including several minor technical and clarifying changes. A discussion of these minor changes may be found in the preamble to the proposed rule.[6]

3. § 652.10(c)—Investment Policies—Risk Tolerance

Proposed § 652.10(c) would have required Farmer Mac's investment policies to ensure that the Corporation maintains prudent diversification of its investment portfolio and that its asset allocations and investment portfolio strategies do not expose its capital or earnings to excessive risk of loss. In final § 652.10(c), we revise this requirement to provide that Farmer Mac's investment policies must include concentration limits to ensure prudent diversification of credit, market, and liquidity risks in its investment portfolio. We believe this language is more specific, better reflects requirements that are necessary for safety and soundness, and provides consistency with the rule governing System banks and associations. We emphasize, however, that the objective of this requirement remains ensuring that Farmer Mac's asset allocations and investment portfolio strategies do not expose its capital or earnings to excessive risk of loss.

In addition, our proposed rule, as well as our existing rule, provides that risk limits must be based on Farmer Mac's objectives, capital position, and risk tolerance. In the final rule, we further specify that risk limits must be based on all relevant factors, including Farmer Mac's objectives, capital position, earnings, and quality and reliability of risk management systems.

Existing § 652.10(c)(1)(ii) requires Farmer Mac's board (or a designated subcommittee) to review annually the criteria for selecting securities firms and the board to approve any changes to the criteria. It also requires that the board (or subcommittee) review annually the existing relationships with securities firms and be notified before any changes to securities firms are made.

In our NPRM, we proposed clarifying changes to these requirements but did not intend a significant change in the meaning. Both Farmer Mac and the Council objected to the existing requirement that the board must review existing relationships and be notified before changes are made to these relationships. The Council commented that this requirement is confusing, creates an excessive burden, and results in an unnecessary distraction for the board.

We agree that as long as Farmer Mac's board (or a designated committee) reviews the selection criteria on an annual basis, and the board approves any changes to the criteria, the board does not need to be involved in the approval of relationships. Accordingly, we have deleted the existing and proposed requirement that the board (or a subcommittee) must review existing relationships and be notified before changes are made to these relationships.

We adopt several other minor technical, clarifying, and non-substantive changes in this paragraph.

4. § 652.10(e)—Internal Controls

Existing § 652.10(e)(2) requires Farmer Mac to establish and maintain a separation of duties and supervision between personnel who execute investment transactions and personnel who approve, revaluate, and oversee investments. Proposed § 651.10(e)(2) would have added to the list of

[6] *See* 76 FR 71801, Nov. 18, 2011.

personnel whose duties and supervision would have had to be separated from personnel who execute investment transactions. These additional personnel would have been those who post accounting entries, reconcile trade confirmations, and report compliance with investment policy.

Both Farmer Mac and the Council objected to this proposed revision as overly prescriptive. Rather than itemizing all of the possible personnel functions, final § 652.10(e)(2) provides that Farmer Mac must establish and maintain a separation of duties between personnel who supervise or execute investment transactions and personnel who supervise or engage in all other investment-related functions. These other investment-related functions include those itemized in the list in the proposed rule, as well as any other functions that are investment related. This regulation does not prohibit one person from performing or supervising more than one investment-related function (other than executing, or supervising the execution of, investment transactions), if appropriate controls are in place as warranted by the complexity and risk of Farmer Mac's investment operations.

Proposed section 652.10(e)(4) would have added a new requirement that Farmer Mac must implement an effective internal audit program to review, at least annually, its investment controls, processes, and compliance with FCA regulations and other regulatory guidance. The internal audit program would have had to specifically include a review of its process for ensuring all investments were eligible and suitable for purchase under its board's investment policies.

Both Farmer Mac and the Council commented that this requirement was too prescriptive and eliminated the flexibility that is necessary for Farmer Mac's internal auditors to establish their own risk-based approach to audits. Final § 652.10(e)(4) requires Farmer Mac to implement an effective internal audit program to review, at least annually, its investment management functions, controls, processes, and compliance with FCA regulations. The scope of the annual review must be appropriate for the size, risk, and complexity of the investment portfolio.

5. § 652.10(f)—Due Diligence

We made a number of minor technical and non-substantive changes throughout this paragraph to clarify the requirements and to more closely match up with the language of the rule governing the System banks and associations. We do not identify these minor changes here. Below we discuss our responses to the comments we received, including the changes we make in response to those comments.

Proposed § 652.10(f)(1)(i) would have required Farmer Mac, before it purchased an investment, to conduct sufficient due diligence to determine whether the investment was eligible and suitable under its board-approved investment policies and to document this determination.

This proposed requirement is retained in new § 652.10(f)(1)(i), with minor clarifications. Since we had used the term ''suitable'' to mean an investment complied with Farmer Mac's board-approved investment policies, we simplify the regulation by eliminating that term and instead requiring Farmer Mac to determine whether an investment complies with those policies. We also clarify that Farmer Mac must determine whether an investment is for an authorized purpose.

The Council commented that eligibility and the other pre-purchase assessments are often established for a class or segment of securities by specifying the criteria (credit risk, liquidity, market risk, etc.) that make a class of securities eligible and suitable per se, and it requested clarification that these pre-purchase assessments may be defined for segments or classes of securities that meet appropriate criteria rather on a security-by-security basis. We note that the regulation does not prohibit Farmer Mac from establishing criteria for various classes or segments of investments; nonetheless, Farmer Mac must continue to adequately document its evaluation and assessments of investments being purchased.

We also added a sentence to § 652.10(f)(1)(i) specifically authorizing Farmer Mac, with board approval, to hold investments that do not comply with its investment policies. This addition recognizes that such decisions are within the discretion of the board's business judgment. We emphasize that this provision does not authorize the board to approve investments that do not comply with our regulatory eligibility requirements and purpose limitations.

Existing § 652.10(f)(1) requires Farmer Mac to verify the value of a security that it plans to purchase, other than a new issue, with a source that is independent of the broker, dealer, counterparty, or other intermediary to the transaction. We proposed to relocate this requirement to § 652.10(f)(1)(ii) but proposed no substantive changes to the requirement.[7]

Both Farmer Mac and the Council objected to this existing requirement. The Council commented that verifying value from an independent source is not realistic for investments of tranches of collateralized mortgage obligations (CMOs), including planned amortization class (PAC) bonds, purchased in the primary market. The Council stated that these securities are generally unique in nature and their value, when newly created, will be impossible to verify with a third party prior to purchase.

In response, we reiterate that the third-party, pre-purchase valuation requirement explicitly excludes new issues. Accordingly, Farmer Mac need not seek third-party, pre-purchase valuation for new issues.

Proposed § 652.10(f)(1)(iii) would have contained extensive risk-assessment evaluation and documentation requirements. Both Farmer Mac and the Council objected to these requirements. The Council commented that the detail and prescriptiveness of this paragraph was unnecessary, burdensome, and redundant to the proposed investment policy requirements. The Council also stated that the proposed rule governing System banks and associations, while still excessive, was more ''streamlined'' and consistent with the overall objectives of the regulations.

In response, we have revised the requirements of final § 652.10(f)(1)(iii) to be much less detailed than those in the NPRM as well as more similar, but not identical, to those in the final rule governing System banks and associations. The final rule specifies the risks that must be assessed but, other than stress-testing requirements, which are discussed below, it does not specify how these risks must be assessed. We explain in this preamble our expectations for how Farmer Mac should assess its risk. These expectations were stated as requirements in the proposed rule.

In its assessment of credit risk, Farmer Mac should consider the nature and type of underlying collateral, credit enhancements, complexity of the structure, and any other available indicators of the risk of default.

In its assessment of liquidity risk, Farmer Mac should consider the investment structure, depth of the market, and ability to liquidate the

[7] The proposed requirement read: ''Prior to purchase, you must verify the value of the investment (unless it is a new issue) with a source that is independent of the broker, dealer, counterparty, or other intermediary to the transaction.''

position under a variety of economic scenarios and market conditions.

In its assessment of market risk, Farmer Mac should consider how various market stress scenarios including, at a minimum, potential changes in interest rates and market conditions (such as changes in market perceptions of creditworthiness), are likely to affect the cash flow and price of the instrument.

The proposed rule would have required Farmer Mac, in conducting its market risk assessment, to use reasonable and appropriate methodologies for stress testing for the type or class of instrument to ensure the investment complies with risk limits established in its investment and interest rate risk policies. Although we intended that this stress-testing requirement would encompass structured instruments and those with uncertain cash flows, such as mortgage-backed securities and asset-backed securities, the proposed rule did not expressly specify what types or classes of instruments must be stress tested.

The Council commented that this proposal was more lenient than the provisions that were proposed for System banks and associations, which would have expressly required stress testing of all instruments prior to purchase. In response to the Council's comment, and to clarify our intentions in our proposed regulation, final § 651.10(f)(1)(iii) expressly requires Farmer Mac to stress test all investments that are structured or that have uncertain cash flows, including specifically mortgage-backed securities and asset-backed securities, prior to their purchase. The stress test must be commensurate with the risk and complexity of the investment.

Existing § 652.10(f)(2) requires Farmer Mac, at least monthly, to determine the fair market value of each security in its portfolio and the fair market value of its whole investment portfolio. In doing so, Farmer Mac must also evaluate the credit quality and price sensitivity to the change in market interest rates of each security in its portfolio and its whole investment portfolio. We had proposed to delete the entire second sentence. Final § 652.10(f)(3) requires Farmer Mac to establish and maintain processes to monitor and evaluate changes in the credit quality of each security in its portfolio and its whole investment portfolio on an ongoing basis. We delete the price sensitivity evaluation requirement because that is addressed in our final interest rate risk management regulation at § 652.30(c)(3).

Final § 652.10(f)(4)(i) requires Farmer Mac to stress test its entire investment portfolio, including stress tests of all investments individually and stress tests of the portfolio as a whole, at the end of each quarter. The stress test must enable Farmer Mac to determine that its investment securities, both individually and on a portfolio-wide basis, do not expose its capital, earnings, or liquidity to risks that exceed the risk tolerance specified in its investment policies. These requirements combine and clarify the existing § 652.40(a) requirement that Farmer Mac be able to identify individual securities that expose it to a high level of risk with the portfolio-wide stress testing required by proposed § 652.10(f)(3)(i).

The Council commented that the stress-testing requirements in proposed § 652.10(f)(3)(ii) differed in subtle but important ways from what was proposed for System banks and associations, and it stated that this inconsistency was not supported by any business difference between Farmer Mac and System banks and associations. The Council did not, however, either specify the differences or explain why the differences were important. We have made a few minor changes in the final rule. We believe the final rule is substantially similar to the final rule governing the System banks and associations; any differences are not intended to be material.

6. § 652.10(g)—Reports to the Board of Directors

Farmer Mac commented that the board reporting requirements in proposed § 652.10(g) go beyond establishing a framework for safety and soundness and instead effectively supplant Farmer Mac's business judgment with FCA's, but the Corporation provided no specific comments on the requirements. The Council, commenting on the proposed rule governing System banks and associations—which was somewhat more detailed than the proposed rule governing Farmer Mac—stated that the board reporting requirements were exceedingly prescriptive and limiting of the board's authority to direct management, and it requested that the provisions be generalized and simply require that the board receive a quarterly report containing information on the investment portfolio as the board deems appropriate.

We are finalizing § 651.10(g) as proposed. We believe this level of reporting is necessary to ensure the board has the information it needs about Farmer Mac's investments.

E. Section 652.15—Non-Program Investment Purposes and Limitation

We are finalizing our proposal to renumber existing § 652.25 as § 652.15.

We proposed in § 652.15(a) to add a new permissible purpose for Farmer Mac's non-program investments—investments that complement program business activities. In the preamble to the proposed rule, we stated that this purpose would recognize that certain investments, such as investments with a rural focus that are backed by the full faith and credit of the United States Government, could advance Farmer Mac's mission by complementing its program business activities. We believe that even if an investment is not held for the purposes of complying with interest rate risk management requirements, complying with liquidity requirements, or managing surplus short-term funds, mission advancement could nevertheless be an appropriate purpose for which to hold investments.[8]

Section 8.3(c)(12) of the Act permits Farmer Mac to ''purchase or sell any securities or obligations * * * necessary and convenient to the business of the Corporation.'' We believe this proposed broadening of investment purposes is compatible with Farmer Mac's statutory mandate and consistent with congressional intent.

We emphasized in the preamble to the proposed rule that this provision would not add any new eligible investments to our authorized list; Farmer Mac would still need to seek FCA's prior approval for any investments not explicitly authorized on the list of eligible investments.

In addition, we stated in the preamble to the proposed rule that neither the proposed purpose nor any of the three existing purposes authorize Farmer Mac to accumulate investment portfolios for arbitrage activities or to engage in trading for speculative or primarily capital gains purposes. We stated that realizing gains on sales before investments mature is not a regulatory violation as long as the profits are incidental to the specified permissible investment purposes. And we emphasized that Farmer Mac's internal controls must ensure that eligible investments clearly fulfill one or more of the authorized investment purposes.

The Council strongly objected to the proposed purpose, stating that FCA ''specifically states'' that the purpose will allow Farmer Mac to use non-program investments as a business strategy to enhance returns for investors.

[8] FCA has also approved mission-related investments for System banks and associations on a case-by-case basis.

The Council stated that this purpose would authorize Farmer Mac to assume additional risk in its non-program investments and that Farmer Mac's authorized investment purposes should be the same as those for System banks. The Council also expressed concern that FCA did not define what constitutes ''business activities.'' The Council asked us to delete this proposed purpose entirely.

We adopt this provision as proposed. We specifically state that this new purpose is to advance Farmer Mac's mission by complementing Farmer Mac's program business activities—not to enhance returns to investors. Positive returns are permissible only if they are incidental to this purpose or to one of the three existing purposes. FCA will use its supervisory authorities to ensure that all investments held for this purpose actually do complement Farmer Mac's program business activities and that the risk and return characteristics of such investments are appropriate.

As stated above, Farmer Mac may hold only investments that are already on the list of eligible investments unless it seeks FCA's prior approval. In determining whether to grant approval, FCA will consider the risk of the investment and whether it actually does complement Farmer Mac's program business activities; where appropriate, we may impose conditions on the approval. Although System banks do not have such a purpose authorized by regulation, FCA has approved many mission-related investments for System banks and associations. We further emphasize that Farmer Mac's investments held for any of the four permissible purposes will be subject to the 35-percent investment limit in § 652.15(b). We believe this limitation will help ensure that Farmer Mac's mission achievement continues to be centered on providing a source of liquidity and credit support for agriculture and rural lenders directly through its secondary market and guarantee programs. Investments that complement program business activities should have an agricultural or rural focus.

We adopt as final our proposal to change the current regulatory maximum non-program investment parameters in paragraph (b) to delete the alternate maximum of a fixed $1.5 billion. While we continue to believe that excessive or inappropriate use of non-program investments is not consistent with the Corporation's statutory mission and status as a Government-sponsored enterprise (GSE), we believe the maximum investment parameter of 35 percent of program volume alone is sufficient and that there is no longer a need for the $1.5-billion ceiling on that maximum calculation. This change is based on Farmer Mac's growth since the $1.5 billion ceiling was established in 2005. We received no comment on this proposal.

Also in paragraph (b), we adopt as final our proposal to permit Farmer Mac to exclude investments pledged to meet margin requirements for derivative transactions (collateral) when calculating the 35-percent investment limit under paragraph (b).[9] We note that investments that are pledged as collateral do not count toward Farmer Mac's compliance with its liquidity requirements.[10] We make this change because the Dodd-Frank Act may result in additional margin requirements for Farmer Mac, and we want to avoid the unintended consequence of discouraging the use of derivatives as an appropriate risk management tool. We received positive comments on this proposal from the Council.

The Council requested that we also exclude various other investments from the investment limit calculation. The Council requested that we exclude securities purchased and designated for the primary purpose of posting collateral for derivative positions, even if the collateral is returned or the securities are never posted. The Council stated that including these securities in the limit would require Farmer Mac to maintain a cushion under the limit to accommodate the possibility of return, thereby limiting the amount of other investments it can hold to manage its liquidity position and derivative counterparty exposures.

Both Farmer Mac and the Council asked that Treasury securities also be excluded from the 35-percent limit. Farmer Mac stated that the proposed rule would require it to hold significant amounts of Treasury securities to meet FCA's liquidity requirements, thereby utilizing a large portion of its liquidity and investment portfolio capacity. The Council stated that the 35-percent limit creates an economic constraint and disincentive to holding Treasury securities, even though they are the most liquid and marketable investment.

Finally, the Council also requested that investment securities pledged in secured borrowing relationships be excluded from the 35-percent limit. The Council cited State Ag-Linked lending programs and repurchase agreements as examples of these secured borrowing relationships. Under both arrangements, according to the Council, the pledging of securities acts as an alternative means of obtaining cash for operations. Under § 652.35(b) (renumbered from § 652.20(b)), these investments may not be counted in the liquidity reserve because they are not unencumbered. The Council asserts that excluding securities pledged in secured borrowing relationships from the 35-percent limit would be consistent with use of the securities as an alternative method to secure financing and their treatment under the FCA regulatory liquidity measurement.

We decline to exclude these investments from the investment limit. We view these types of transactions as part of Farmer Mac's normal cash management operations. Thus, under normal conditions, we expect Farmer Mac to manage the level of its investments within FCA's portfolio size limits to ensure regulatory compliance. If, in unusual business environments, Farmer Mac were to experience the unexpected need for a significant increase in pledgeable assets, and that increase could result in a short-term need for regulatory flexibility regarding the 35-percent maximum limit, § 652.45 of this regulation provides for FCA discretion to allow that flexibility.

F. Section 652.20—Eligible Non-Program Investments

As proposed, we renumber existing § 652.35, Eligible Non-Program Investments, as § 652.20. We delete the reference to divestiture that was contained in § 652.35(a)(5), because we no longer require divestiture of investments that were eligible when purchased, and the treatment of investments that were ineligible when purchased is specified in § 652.25(a). We also delete the references to stress-testing mortgage securities that were contained in § 652.35(a)(6), because new § 652.10(f) sets forth stress-testing requirements for investments. We are reprinting this provision because of these changes, but we are making no other changes to the provision.

G. Section 652.25—Management of Ineligible Investments and Reservation of Authority To Require Divestiture

As proposed, we delete existing § 652.45 and replace it with new § 652.25. Existing § 652.45(a)(2) requires Farmer Mac to dispose of an investment that is ineligible[11] within 6 months

[9] Paragraph (b) permits Farmer Mac to hold eligible non-program investments, for specified purposes, up to 35 percent of program volume.

[10] Under new § 652.35(b) (renumbered from existing § 652.20(b)), all investments held for the purpose of meeting the liquidity reserve requirement must be free of liens or other encumbrances.

[11] Under existing § 652.35.

unless we approve, in writing, a plan that authorizes divestment over a longer period of time. An acceptable divestiture plan generally must require Farmer Mac to dispose of the ineligible investment as quickly as possible without substantial financial loss. Until it actually disposes of the ineligible investment, Farmer Mac must report on specified matters to its board of directors and to FCA at least quarterly.

New § 652.25(b) no longer requires Farmer Mac to divest of (or to receive approval of a divestiture plan for) an investment that was eligible [12] when purchased but that no longer satisfies the eligibility criteria.[13] Rather, Farmer Mac would be required to notify the OSMO within 15 calendar days of determining that the investment no longer satisfies the eligibility criteria, and the investment would be subject to specified requirements that are discussed below. This approach provides the Corporation with greater flexibility to manage its position and mitigate losses as compared with a forced divestiture during a specific time period (or the need to devote resources to developing and submitting a divestiture plan for FCA to consider).

The proposed rule would have required Farmer Mac to notify the OSMO ''promptly'' if an investment no longer satisfied the eligibility criteria. Farmer Mac commented that the term ''prompt'' leaves significant room for interpretation as to practical application, and it requested a specific timeframe. The Council commented that it was unsure what ''prompt'' meant in the context of the rule, and it stated that notification is redundant and unnecessary given the requirements of the regulation and the ongoing nature of FCA's examination function. If FCA retained this requirement, the Council suggested a 60-calendar-day notice period.

In response to these comments, we make the notification period 15 calendar days after Farmer Mac determines that the investment no longer satisfies the eligibility criteria. We believe this notification period is adequate, since the timeframe does not begin until Farmer Mac makes the determination. Moreover, notification can be as simple as a telephone call or an email.

The proposed rule would also have required notification to the OSMO when an investment that satisfied the regulatory eligibility criteria was not suitable because it did not satisfy the risk tolerance established in the institution's required board policy, and the investment would have been subject to the same specified requirements discussed below. We are deleting this notification requirement from the final rule because we do not want to create a disincentive for Farmer Mac to establish a risk tolerance that is stricter than FCA's regulatory eligibility criteria. Under the final rule, Farmer Mac does not have to notify the OSMO when an investment that satisfies FCA's regulatory eligibility criteria does not satisfy its own risk tolerance, nor is the investment subject to the other specified requirements discussed below.

As we proposed, final § 652.25(a) provides that an investment that does not satisfy the regulatory eligibility criteria at the time of purchase is ineligible. Under the final rule (as under the existing regulation), Farmer Mac may not purchase ineligible investments. If Farmer Mac does purchase an ineligible investment, it must notify the OSMO within 15 calendar days after determining that the investment was ineligible and must divest of the investment no later than 60 calendar days after the determination unless we approved, in writing, a plan that authorizes divestiture over a longer period of time.

Although it is not stated in the regulation, we clarify here that an acceptable divestiture plan would have to require Farmer Mac to dispose of the investment as quickly as possible without substantial financial loss. The plan would also have to contain sufficient analysis to support continued retention of the investment, including its effect on the institution's capital, earnings, liquidity, and collateral position. Our decision would not be based solely on financial loss and would include consideration of all circumstances surrounding the purchase. Until Farmer Mac divests of the investment, it would be subject to the same specified requirements discussed below.

Furthermore, we emphasize that any purchase of an ineligible investment would indicate weaknesses in Farmer Mac's internal controls and due diligence and would trigger increased FCA oversight if it occurs. We expect such a purchase to occur rarely, if ever. For this reason, we are retaining the divestiture requirement from the existing and proposed rules, despite the Council's request that we treat investments that are ineligible when purchased in the same manner as we treat investments that are eligible when purchased but that subsequently fail to meet the eligibility criteria. Furthermore, in response to the Council's comment that this provision essentially authorizes Farmer Mac to purchase ineligible investments that could be held for 60 calendar days, we emphasize that this provision does not authorize such a purchase. As stated, if Farmer Mac makes such a purchase, it should expect increased FCA oversight of its internal controls and due diligence process, as well as other enforcement actions as appropriate.

The specified requirements that apply to investments retained by Farmer Mac that are ineligible or that no longer satisfy the eligibility requirements are specified in § 652.25(c). We believe these specified requirements are warranted by safety and soundness concerns.

Section 652.25(c)(1) contains reporting requirements. Each quarter, Farmer Mac is required to report to FCA and to its board on the status of all such investments. The report must demonstrate the effect that the investments may have on the Corporation's capital, earnings, and liquidity position. Additionally, the report must address how the Corporation plans to reduce its risk exposure from these investments or exit the position.

Section 652.25(c)(2) provides that the investments may not be used to satisfy Farmer Mac's liquidity requirement(s) in § 652.40 and that they must continue to be included in the investment portfolio limit calculation established in § 652.15(b).

Finally, § 652.25(d) reserves FCA's authority to require Farmer Mac to divest of any investment at any time for failure to comply with § 652.15(a) or for safety and soundness purposes. Although we did not propose failure to comply with the permissible investment purposes specified in § 652.15(a) as a basis for requiring divestiture, this change makes explicit our authority to require divestiture of an investment that does not comply with our investment regulations. The timeframe FCA sets would consider the expected loss on the transaction (or transactions) and the effect on Farmer Mac's financial condition and performance. Because the final rule does not require automatic divestiture of any investment that was eligible when purchased, FCA is making express our authority to require divestiture of investments when necessary.

H. Section 652.30—Interest Rate Risk Management

We renumber existing § 652.15 as § 652.30. No comments were received on the proposed revisions to this section, and we finalize them as

[12] Under renumbered § 652.20.

[13] Such an investment would no longer be considered ''ineligible.''

proposed, with a minor, non-substantive change. The preamble to our proposed rule explains our changes.

I. Section 652.35—Liquidity Reserve Management and Requirements

As proposed, we renumber existing § 652.20, Liquidity Reserve Management and Requirements, as § 652.35. We are reprinting this provision because of this renumbering, but we are making no other changes to the provision.

J. Section 642.40—Stress Tests for Mortgage Securities

As proposed, we remove this standalone section from our regulations and incorporate its requirements into § 652.10(f), as discussed above.

K. Section 652.45—Temporary Regulatory Waivers or Modifications for Extraordinary Situations

We adopt the proposed revisions to § 652.45. We relocate existing § 652.30, which authorizes FCA to modify or waive regulatory investment management and liquidity management requirements in extraordinary situations, to new § 652.45. We believe this location is more appropriate for this provision.

In addition to the existing specific modifications and waivers the provision authorizes, we amend § 652.45 to authorize FCA to take other actions as deemed appropriate. This added authority will give FCA additional flexibility to address extraordinary situations.

We received no comments on this revision, and the Council was supportive of similar changes in the proposed rule governing System banks.

V. Regulatory Flexibility Act

Farmer Mac has assets and annual income in excess of the amounts that would qualify it as a small entity. Therefore, Farmer Mac is not a ''small entity'' as defined in the Regulatory Flexibility Act. Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 652

Agriculture, Banks, banking, Capital, Investments, Rural areas.

For the reasons stated in the preamble, part 652 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 652—FEDERAL AGRICULTURAL MORTGAGE CORPORATION FUNDING AND FISCAL AFFAIRS

■ 1. The authority citation for part 652 continues to read as follows:

Authority: Secs. 4.12, 5.9, 5.17, 8.11, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2252, 2279aa–11, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

■ 2. Subpart A, consisting of §§ 652.1 through 652.45, is revised to read as follows:

Subpart A—Investment Management

Sec.
652.1 Purpose.
652.5 Definitions.
652.10 Investment management.
652.15 Non-program investment purposes and limitation.
652.20 Eligible non-program investments.
652.25 Management of ineligible investments and reservation of authority.
652.30 Interest rate risk management.
652.35 Liquidity reserve management and requirements.
652.40 [Reserved]
652.45 Temporary regulatory waivers or modifications for extraordinary situations.

Subpart A—Investment Management

§ 652.1 Purpose.

The purpose of this subpart is to ensure safety and soundness, continuity of funding, and appropriate use of non-program investments considering the Federal Agricultural Mortgage Corporation's (Farmer Mac or Corporation) special status as a Government-sponsored enterprise (GSE). The subpart contains requirements for Farmer Mac's board of directors to adopt policies covering such areas as investment management, interest rate risk, and liquidity reserves. The subpart also requires Farmer Mac to comply with various reporting requirements.

§ 652.5 Definitions.

For purposes of this subpart, the following definitions will apply:

Affiliate means any entity established under authority granted to the Corporation under section 8.3(c)(14) of the Farm Credit Act of 1971, as amended.

Asset-backed securities (ABS) mean investment securities that provide for ownership of a fractional undivided interest or collateral interests in specific assets of a trust that are sold and traded in the capital markets. For the purposes of this subpart, ABS exclude mortgage securities that are defined below.

Eurodollar time deposit means a non-negotiable deposit denominated in United States dollars and issued by an overseas branch of a United States bank or by a foreign bank outside the United States.

Farmer Mac, Corporation, you, and your means the Federal Agricultural Mortgage Corporation and its affiliates.

FCA, our, us, or we means the Farm Credit Administration.

Final maturity means the last date on which the remaining principal amount of a security is due and payable (matures) to the registered owner. It does not mean the call date, the expected average life, the duration, or the weighted average maturity.

General obligations of a state or political subdivision means:

(1) The full faith and credit obligations of a state, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a political subdivision thereof that possesses general powers of taxation, including property taxation; or

(2) An obligation that is unconditionally guaranteed by an obligor possessing general powers of taxation, including property taxation.

Government agency means the United States or an agency, instrumentality, or corporation of the United States Government whose obligations are fully and explicitly insured or guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government.

Government-sponsored agency means an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations are not fully and explicitly insured or guaranteed by the full faith and credit of the United States Government, including but not limited to any Government-sponsored enterprise.

Liquid investments are assets that can be promptly converted into cash without significant loss to the investor. A security is liquid if the spread between its bid price and ask price is narrow and a reasonable amount can be sold at those prices promptly.

Long-Term Standby Purchase Commitment (LTSPC) is a commitment by Farmer Mac to purchase specified eligible loans on one or more undetermined future dates. In consideration for Farmer Mac's assumption of the credit risk on the specified loans underlying an LTSPC, Farmer Mac receives an annual commitment fee on the outstanding

balance of those loans in monthly installments based on the outstanding balance of those loans.

Market risk means the risk to your financial condition because the value of your holdings may decline if interest rates or market prices change. Exposure to market risk is measured by assessing the effect of changing rates and prices on either the earnings or economic value of an individual instrument, a portfolio, or the entire Corporation.

Maturing obligations means maturing debt and other obligations that may be expected, such as buyouts of long-term standby purchase commitments or repurchases of agricultural mortgage securities.

Mortgage securities means securities that are either:

(1) Pass-through securities or participation certificates that represent ownership of a fractional undivided interest in a specified pool of residential (excluding home equity loans), multifamily or commercial mortgages, or

(2) A multiclass security (including collateralized mortgage obligations and real estate mortgage investment conduits) that is backed by a pool of residential, multifamily or commercial real estate mortgages, pass-through mortgage securities, or other multiclass mortgage securities.

(3) This definition does not include agricultural mortgage-backed securities guaranteed by Farmer Mac itself.

Nationally recognized statistical rating organization (NRSRO) means a rating organization that the Securities and Exchange Commission recognizes as an NRSRO.

Non-program investments means investments other than those in:

(1) ''Qualified loans'' as defined in section 8.0(9) of the Farm Credit Act of 1971, as amended; or

(2) Securities collateralized by ''qualified loans.''

OSMO means FCA's Office of Secondary Market Oversight.

Program assets means on-balance sheet ''qualified loans'' as defined in section 8.0(9) of the Farm Credit Act of 1971, as amended.

Program obligations means off-balance sheet ''qualified loans'' as defined in section 8.0(9) of the Farm Credit Act of 1971, as amended.

Regulatory capital means your core capital plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

Revenue bond means an obligation of a municipal government that finances a specific project or enterprise, but it is not a full faith and credit obligation. The obligor pays a portion of the revenue generated by the project or enterprise to the bondholders.

Weighted average life (WAL) means the average time until the investor receives the principal on a security, weighted by the size of each principal payment and calculated under specified prepayment assumptions.

§ 652.10 Investment management.

(a) *Responsibilities of the board of directors.* Your board of directors must adopt written policies for managing your non-program investment activities. Your board must also ensure that management complies with these policies and that appropriate internal controls are in place to prevent loss. At least annually, your board, or a designated committee of the board, must review the sufficiency of these investment policies. Any changes to the policies must be adopted by the board. You must report any changes to these policies to the OSMO within 10 business days of adoption.

(b) *Investment policies—general requirements.* Your investment policies must address the purposes and objectives of investments, risk tolerance, delegations of authority, internal controls, due diligence, and reporting requirements. Moreover, your investment policies must fully address the extent of pre-purchase analysis that management must perform for various types, classes, and structure of investments. Furthermore, the policies must include reporting requirements and approvals needed for exceptions to the board's policies. Investment policies must be sufficiently detailed, consistent with, and appropriate for the amounts, types, and risk characteristics of your investments. You must document in the Corporation's records any analyses used in formulating your policies or amendments to the policies.

(c) *Investment policies—risk tolerance.* Your investment policies must establish risk limits for the various types, classes, and sectors of eligible investments. These policies must include concentration limits to ensure prudent diversification of credit, market, and liquidity risks in the investment portfolio. Risk limits must be based on all relevant factors, including the Corporation's objectives, capital position, earnings, and quality and reliability of risk management systems. Your policies must identify the types and quantity of investments that you will hold to achieve your objectives and control credit, market, liquidity, and operational risks. Your policies must establish risk limits for the following four types of risk:

(1) *Credit risk.* Your investment policies must establish:

(i) Credit quality standards, limits on counterparty risk, and risk diversification standards that limit concentrations in a single or related counterparty(ies), geographical areas, industry sectors, and asset classes or obligations with similar characteristics.

(ii) Criteria for selecting brokers, dealers, and investment bankers (collectively, securities firms). You must buy and sell eligible investments with more than one securities firm. As part of your review of your investment policies required under paragraph (a) of this section, your board of directors, or a designated committee of the board, must review the criteria for selecting securities firms. Any changes to the criteria must be approved by the board.

(iii) Collateral margin requirements on repurchase agreements. You must regularly mark the collateral to market and ensure appropriate controls are maintained over collateral held.

(2) *Market risk.* Your investment policies must set market risk limits for specific types of investments and for the investment portfolio.

(3) *Liquidity risk.* Your investment policies must describe the liquidity characteristics of eligible investments that you will hold to meet your liquidity needs and the Corporation's other objectives.

(4) *Operational risk.* Investment policies must address operational risks, including delegations of authority and internal controls in accordance with paragraphs (d) and (e) of this section.

(d) *Delegation of authority.* All delegations of authority to specified personnel or committees must state the extent of management's authority and responsibilities for investments.

(e) *Internal controls.* You must:

(1) Establish appropriate internal controls to detect and prevent loss, fraud, embezzlement, conflicts of interest, and unauthorized investments.

(2) Establish and maintain a separation of duties between personnel who supervise or execute investment transactions and personnel who supervise or engage in all other investment-related functions.

(3) Maintain records and management information systems that are appropriate for the level and complexity of your investment activities.

(4) Implement an effective internal audit program to review, at least annually, your investment management functions, controls, processes, and compliance with FCA regulations. The scope of the annual review must be appropriate for the size, risk, and complexity of the investment portfolio.

(f) *Due diligence*—(1) *Pre-purchase analysis*—(i) *Objective, eligibility, and compliance with investment policies.* Before you purchase an investment, you must conduct sufficient due diligence to determine whether the investment is eligible under § 652.20, is for an authorized purpose under § 652.15(a), and complies with your board-approved investment policies. You must document its eligibility, purpose, and investment policy compliance and your investment objective. Your investment policies must fully address the extent of pre-purchase analysis that management must perform for various types, classes, and structure of investments. Your board must approve your decision to hold an investment that does not comply with your written investment policy requirements.

(ii) *Valuation.* Prior to purchase, you must verify the value of the investment (unless it is a new issue) with a source that is independent of the broker, dealer, counterparty or other intermediary to the transaction.

(iii) *Risk assessment.* Your risk assessment must be documented and, at a minimum, include an evaluation of credit risk, market risk, and liquidity risk and the underlying collateral of the investment. You must conduct stress testing before you purchase any investment that is structured or that has uncertain cash flows, including all mortgage-backed securities or asset-backed securities. The stress testing must be commensurate with the risk and complexity of the investments and must comply with the requirements of paragraph (f)(4) of this section.

(2) *Monthly fair value determination.* At least monthly, you must determine the fair market value of each investment in your portfolio and the fair market value of your whole investment portfolio.

(3) *Ongoing analysis of credit risk.* You must establish and maintain processes to monitor and evaluate changes in the credit quality of each security and the whole investment portfolio on an ongoing basis.

(4) *Quarterly stress testing.* (i) You must stress test your entire investment portfolio, including stress tests of all investments individually and stress tests of the portfolio as a whole, at the end of each quarter. The stress tests must enable you to determine that your investment securities, both individually and on a portfolio-wide basis, do not expose your capital, earnings, or liquidity to risks that exceed the risk tolerance specified in your investment policies. If your portfolio risk exceeds your investment policy limits, you must develop a plan to reduce risk and comply with your investment policy limits.

(ii) Your stress tests must be comprehensive and appropriate for the risk profile of your investment portfolio and the Corporation. At a minimum, the stress tests must be able to measure the price sensitivity of investments over a range of possible interest rate/yield curve scenarios. The methodology that you use to analyze investment securities must be appropriate for the complexity, structure, and cash flows of the investments in your portfolio. You must rely to the maximum extent practicable on verifiable information to support all your assumptions, including prepayment and interest rate volatility assumptions, when you apply your stress tests. Your assumptions must be prudent and based on sound judgment, and you must document the basis for all assumptions that you use to evaluate the security and its underlying collateral. You must also document all subsequent changes in your assumptions.

(5) *Presale value verification.* Before you sell an investment, you must verify its value with a source that is independent of the broker, dealer, counterparty, or other intermediary to the transaction.

(g) *Reports to the board of directors.* At least quarterly, executive management must report on the following to the board of directors or a designated committee of the board:

(1) Plans and strategies for achieving the board's objectives for the investment portfolio;

(2) Whether the investment portfolio effectively achieves the board's objectives;

(3) The current composition, quality, and liquidity profile of the investment portfolio;

(4) The performance of each class of investments and the entire investment portfolio, including all gains and losses that you incurred during the quarter on individual securities that you sold before maturity and why they were liquidated;

(5) Potential risk exposure to changes in market interest rates as identified through quarterly stress testing and any other factors that may affect the value of your investment holdings;

(6) How investments affect your capital, earnings, and overall financial condition;

(7) Any deviations from the board's policies. These deviations must be formally approved by the board of directors.

§ 652.15 Non-program investment purposes and limitation.

(a) Farmer Mac is authorized to hold eligible non-program investments listed under § 652.20 for the purposes of enterprise risk management, including complying with its interest rate risk requirements in § 652.30; complying with its liquidity requirements in § 652.40; managing surplus short-term funds; and complementing program business activities.

(b) Non-program investments cannot exceed 35 percent of program assets and program obligations, excluding 75 percent of the program assets that are guaranteed by the United States Department of Agriculture as described in section 8.0(9)(B) of the Farm Credit Act of 1971, as amended. When calculating the total amount of non-program investments under this section, exclude investments pledged to meet margin requirements on derivative transactions.

§ 652.20 Eligible non-program investments.

(a) You may hold only the types, quantities, and qualities of non-program investments listed in the following Non-Program Investment Eligibility Criteria Table. These investments must be denominated in United States dollars.

NON-PROGRAM INVESTMENT ELIGIBILITY CRITERIA TABLE

Asset class	Final maturity limit	NRSRO issue or issuer credit rating requirement	Other requirements	Maximum percentage of total non-program investment portfolio
(1) Obligations of the United States. • Treasuries	None	NA	None	None.

NON-PROGRAM INVESTMENT ELIGIBILITY CRITERIA TABLE—Continued

Asset class	Final maturity limit	NRSRO issue or issuer credit rating requirement	Other requirements	Maximum percentage of total non-program investment portfolio
• Other obligations (except mortgage securities) fully insured or guaranteed by the United States Government or a Government agency.				
(2) Obligations of Government-sponsored agencies.	None	NA	None	None.
• Government-sponsored agency securities (except mortgage securities).				
• Other obligations (except mortgage securities) fully insured or guaranteed by Government-sponsored agencies.				
(3) Municipal Securities:				
• General obligations	10 years	One of the two highest	None	None.
• Revenue bonds	5 years for fixed rate bonds and 10 years for index/floating rate bonds.	Highest	None	15%.
(4) International and Multilateral Development Bank Obligations.	None	None	The United States must be a voting shareholder.	None.
(5) Money Market Instruments:				
• Federal funds	1 day or continuously callable up to 100 days.	One of the two highest short-term.	None	None.
• Negotiable certificates of deposit.	1 year	One of the two highest short-term.	None	None.
• Bankers acceptances	None	One of the two highest short-term.	Issued by a depository institution.	None.
• Prime commercial paper	270 days	Highest short-term	None	None.
• Non-callable term Federal funds and Eurodollar time deposits.	100 days	Highest short-term	None	20%.
• Master notes	270 days	Highest short-term	None	20%.
• Repurchase agreements collateralized by eligible investments or marketable securities rated in the highest credit rating category by an NRSRO.	100 days	NA		None.
(6) Mortgage Securities:				
• Issued or guaranteed by the United States or a Government agency.	None	NA		None.
• Government-sponsored agency mortgage securities.	None	One of the two highest		50%.
• Non-Government agency or Government-sponsored agency securities that comply with 15 U.S.C. 77d(5) or 15 U.S.C. 78c(a)(41).	None	Highest		15% combined.
• Commercial mortgage-backed securities.	None	Highest	• Security must be backed by a minimum of 100 loans. • Loans from a single mortgagor cannot exceed 5% of the pool. • Pool must be geographically diversified pursuant to the board's policy.	

NON-PROGRAM INVESTMENT ELIGIBILITY CRITERIA TABLE—Continued

Asset class	Final maturity limit	NRSRO issue or issuer credit rating requirement	Other requirements	Maximum percentage of total non-program investment portfolio
(7) Asset-Backed Securities secured by: • Credit card receivables • Automobile loans • Home equity loans • Wholesale automobile dealer loans • Student loans • Equipment loans • Manufactured housing loans	None	Highest	Maximum of 5-year WAL for fixed rate or floating rate ABS at their contractual interest rate caps.	25% combined.
(8) Corporate Debt Securities.	5 years	One of the highest two for maturities greater than 3 years, and one of the highest three for maturities of three years or less.	Cannot be convertible to equity securities.	25%.
(9) Diversified Investment Funds. Shares of an investment company registered under section 8 of the Investment Company Act of 1940.	NA	NA	The portfolio of the investment company must consist solely of eligible investments authorized by this section. The investment company's risk and return objectives and use of derivatives must be consistent with FCA guidance and your investment policies.	None, if your shares in each investment company comprise less than 10% of your portfolio. Otherwise counts toward limit for each type of investment.

Note: You must also comply with requirements of paragraphs (b), (c), and (d) of this section, and § 651.40 when applicable. "NA" means not applicable.

(b) *Rating of foreign countries.* Whenever the obligor or issuer of an eligible investment is located outside the United States, the host country must maintain the highest sovereign rating for political and economic stability by an NRSRO.

(c) *Marketable investments.* All eligible investments, except money market instruments, must be readily marketable. An eligible investment is marketable if you can sell it promptly at a price that closely reflects its fair value in an active and universally recognized secondary market. You must evaluate and document the size and liquidity of the secondary market for the investment at time of purchase.

(d) *Obligor limits.* (1) You may not invest more than 25 percent of your regulatory capital in eligible investments issued by any single entity, issuer, or obligor. This obligor limit does not apply to Government-sponsored agencies or Government agencies. You may not invest more than 100 percent of your regulatory capital in any one Government-sponsored agency. There are no obligor limits for Government agencies.

(2) *Obligor limits for your holdings in an investment company.* You must count securities that you hold through an investment company toward the obligor limits of this section unless the investment company's holdings of the security of any one issuer do not exceed 5 percent of the investment company's total portfolio.

(e) *Preferred stock and other investments approved by the FCA.* (1) You may purchase non-program investments in preferred stock issued by other Farm Credit System institutions only with our written prior approval. You may also purchase non-program investments other than those listed in the Non-Program Investment Eligibility Criteria Table at paragraph (a) of this section only with our written prior approval.

(2) Your request for our approval must explain the risk characteristics of the investment and your purpose and objectives for making the investment.

§ 652.25 Management of ineligible investments and reservation of authority.

(a) *Investments ineligible when purchased.* Investments that do not satisfy the eligibility criteria set forth in § 652.20 at the time of purchase are ineligible. You must not purchase ineligible investments. If you determine that you have purchased an ineligible investment, you must notify the OSMO within 15 calendar days after such determination. You must divest of the investment no later than 60 calendar days after the determination unless we approve, in writing, a plan that authorizes you to divest of the investment over a longer period of time.

(b) *Investments that no longer satisfy eligibility criteria.* If you determine that an investment (that satisfied the eligibility criteria set forth in § 652.20 when purchased) no longer satisfies the eligibility criteria, you must notify the OSMO within 15 calendar days of the determination.

(c) *Requirements for investments that are ineligible or no longer satisfy eligibility criteria—(1) Reporting requirements.* Each quarter, you must report to the OSMO and your board on the status of investments identified in paragraph (a) or (b) of this section. Your report must demonstrate the effect that these investments may have on the Corporation's capital, earnings, and liquidity position. Additionally, the report must address how the Corporation plans to reduce its risk exposure from these investments or exit the position(s).

(2) Other requirements. Investments identified in paragraph (a) or (b) of this section may not be used to satisfy the liquidity requirement(s) in § 652.40. These investments must continue to be included in the investment portfolio

limit calculation established in § 652.15(b).

(d) *Reservation of authority.* FCA retains the authority to require you to divest of any investment at any time for failure to comply with § 652.15(a) or for safety and soundness reasons. The timeframe set by FCA for such required divestiture will consider the expected loss on the transaction (or transactions) and the effect on the Corporation's financial condition and performance.

§ 652.30 Interest rate risk management.

(a) The board of directors of Farmer Mac must provide effective oversight (direction, controls, and supervision) of interest rate risk management and must be knowledgeable of the nature and level of interest rate risk taken by Farmer Mac.

(b) The board of directors of Farmer Mac must adopt an interest rate risk management policy that establishes appropriate interest rate risk exposure limits based on the Corporation's risk-bearing capacity and reporting requirements in accordance with paragraphs (c) and (d) of this section. At least annually, the board of directors, or a designated committee of the board, must review the policy. Any changes to the policy must be approved by the board of directors. You must report any changes to the policy to the OSMO within 10 business days of adoption.

(c) The interest rate risk management policy must, at a minimum:

(1) Address the purpose and objectives of interest rate risk management;

(2) Identify the causes of interest rate risk and set appropriate quantitative limits consistent with a clearly articulated board risk tolerance;

(3) Require management to establish and implement comprehensive procedures to measure the potential effect of these risks on the Corporation's projected earnings and market values by conducting interest rate stress tests and simulations of multiple economic scenarios at least quarterly. Your stress tests must gauge how interest rate fluctuations affect the Corporation's capital, earnings, and liquidity position. The methodology that you use must be appropriate for the complexity of the structure and cash flows of your on- and off-balance sheet positions, including the nature and purpose of derivative contracts, and establish counterparty risk thresholds and limits for derivatives. It must also ensure an appropriate level of consistency with the stress-test scenarios considered under § 652.10(f)(4). Assumptions applied in stress tests must, to the maximum extent practicable, rely on verifiable information. You must document the basis for all assumptions that you use.

(4) Describe and authorize management to implement actions needed to achieve Farmer Mac's desired risk management objectives;

(5) Ensure procedures are established to evaluate and document, at least quarterly, whether actions taken have actually met the Corporation's desired risk management objectives;

(6) Identify exception parameters and approvals needed for any exceptions to the policy's requirements;

(7) Describe delegations of authority; and,

(8) Describe reporting requirements, including exceptions to policy limits.

(d) At least quarterly, management must report to the Corporation's board of directors, or a designated committee of the board, describing the nature and level of interest rate risk exposure. Any deviations from the board's policy on interest rate risk must be specifically identified in the report and approved by the board, or a designated committee of the board.

§ 652.35 Liquidity reserve management and requirements.

(a) *Minimum liquidity reserve requirement.* Within 24 months of this rule becoming effective, and thereafter, Farmer Mac must hold cash, eligible non-program investments under § 652.35 of this subpart, and/or on-balance sheet securities backed by portions of Farmer Mac program assets (loans) that are guaranteed by the United States Department of Agriculture as described in section 8.0(9)(B) of the Act (in accordance with the requirements of paragraphs (b) and (c) of this section), to maintain sufficient liquidity to fund a minimum of 60 days of maturing obligations, interest expense, and operating expenses at all times. You must document your compliance with this minimum reserve requirement at least once each month as of the last day of the month using month-end data. Liquid asset values must be marked to market. In addition, you must have the capability and information systems in place to be able to calculate the minimum reserve requirement on a daily basis.

(b) *Free of lien.* All investments held for the purpose of meeting the liquidity reserve requirement of this section must be free of liens or other encumbrances.

(c) *Discounts.* The amount that may be counted to meet the minimum liquidity reserve requirement is as follows:

(1) For cash and overnight investments, multiply the cash and investments by 100 percent;

(2) For money market instruments with maturities of 5 business days or less, multiply the instruments by 97 percent of market value;

(3) For money market instruments with maturities greater than 5 business days and floating-rate debt and preferred stock securities, multiply the instruments and securities by 95 percent of market value;

(4) For diversified investment funds, multiply the individual securities in the funds by the discounts that would apply to the securities if held separately;

(5) For fixed-rate debt and preferred stock securities, multiply the securities by 90 percent of market value;

(6) For securities backed by Farmer Mac program assets (loans) guaranteed by the United States Department of Agriculture as described in section 8.0(9)(B) of the Act, multiply the securities by 75 percent; and

(7) We reserve the authority to modify or determine the appropriate discount for any investment used to meet the minimum liquidity reserve requirement if the otherwise applicable discount does not accurately reflect the liquidity of that investment or if the investment does not fit wholly within one of the specified investment categories. In making any modification or determination, we will consider the liquidity of the investment as well as any other relevant factors. We will provide notice of at least 20 business days before any modified discounts will take effect.

(d) *Liquidity reserve policy—board responsibilities.* Farmer Mac's board of directors must adopt a liquidity reserve policy. The board must also ensure that management uses adequate internal controls to ensure compliance with the liquidity reserve policy standards, limitations, and reporting requirements established pursuant to this paragraph and to paragraphs (e), (f), and (g) of this section. At least annually, the board of directors or a designated subcommittee of the board must review and validate the liquidity policy's adequacy. The board of directors must approve any changes to the policy. You must provide a copy of the revised policy to FCA's Office of Secondary Market Oversight within 10 business days of adoption.

(e) *Liquidity reserve policy—content.* Your liquidity reserve policy must contain at a minimum the following:

(1) The purpose and objectives of liquidity reserves;

(2) A listing of specific assets, debt, and arrangements that can be used to meet liquidity objectives;

(3) Diversification requirements of your liquidity reserve portfolio;

(4) Maturity limits and credit quality standards for non-program investments used to meet the minimum liquidity reserve requirement of paragraph (a) of this section;

(5) The minimum and target (or optimum) amounts of liquidity that the board believes are appropriate for Farmer Mac;

(6) The maximum amount of non-program investments that can be held for meeting Farmer Mac's liquidity needs, as expressed as a percentage of program assets and program obligations;

(7) Exception parameters and post approvals needed;

(8) Delegations of authority; and

(9) Reporting requirements.

(f) *Liquidity reserve reporting—periodic reporting requirements.* At least quarterly, Farmer Mac's management must report to the Corporation's board of directors or a designated subcommittee of the board describing, at a minimum, liquidity reserve compliance with the Corporation's policy and this section. Any deviations from the board's liquidity reserve policy (other than requirements specified in § 652.20(e)(5)) must be specifically identified in the report and approved by the board of directors.

(g) *Liquidity reserve reporting—special reporting requirements.* Farmer Mac's management must immediately report to its board of directors any noncompliance with board policy requirements that are specified in § 652.20(e)(5). Farmer Mac must report, in writing, to FCA's Office of Secondary Market Oversight no later than the next business day following the discovery of any breach of the minimum liquidity reserve requirement at § 652.20(a).

§ 652.40 [Reserved]

§ 652.45 Temporary regulatory waivers or modifications for extraordinary situations.

Whenever the FCA determines that an extraordinary situation exists that necessitates a temporary regulatory waiver or modification, the FCA may, in its sole discretion:

(a) Modify or waive the minimum liquidity reserve requirement in § 652.40 of this subpart;

(b) Modify the amount, qualities, and types of eligible investments that you are authorized to hold pursuant to § 652.20 of this subpart; and/or

(c) Take other actions as deemed appropriate.

Dated: October 25, 2012.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2012–26805 Filed 11–2–12; 8:45 am]

BILLING CODE 6705–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0451; A–1–FRL–9748–2]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions consist of a demonstration that New Hampshire meets the requirements of reasonably available control technology for oxides of nitrogen and volatile organic compounds set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard, and revisions to existing rules controlling these pollutants, and source-specific orders for fifteen individual sources. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective January 4, 2013, unless EPA receives adverse comments by December 5, 2012. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by the Docket ID Number EPA–R01–OAR–2009–0451 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: arnold.anne@epa.gov*

3. *Fax:* (617) 918–0047.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2009–0451,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier. Deliver your comments to:* Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, 5th Floor, Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2009–0451. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov*, or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, 5th Floor, Boston, MA. EPA requests that if at all possible, you contact the

contact 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 legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment, at the State Air Agency, as follows: Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Summary of New Hampshire's SIP Revisions
III. Evaluation of New Hampshire's SIP Submittals
A. Evaluation of RACT Certification
B. Evaluation of Revised New Hampshire Rules
1. Revisions to VOC Rules and Single Source VOC RACT Orders
2. Revisions to NO_X Rules and Single Source NO_X RACT Orders
3. Revisions to Testing and Monitoring Procedures
4. Revisions to Recordkeeping and Reporting Requirements
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background and Purpose

In 1997, EPA revised the health-based national ambient air quality standard (NAAQS) for ozone, setting it at 0.08 parts per million (ppm) averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing one-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors, and individuals with a pre-existing respiratory disease such as asthma.

On April 30, 2004 (69 FR 23951), EPA designated portions of New Hampshire located in the southern part of the state as nonattainment for the 1997 8-hour ozone standard. These areas were classified as moderate, and are located within portions of Hillsborough, Merrimack, Rockingham, and Strafford counties. See 40 CFR 81.330. The use of reasonably available control technology (RACT) by certain stationary sources is specified by sections 172(c)(1) and 182(b)(2) of the Clean Air Act (CAA, or ''the Act'') in nonattainment areas classified as moderate or higher. Additionally, section 184(b)(1)(B) of the Act requires RACT controls in states located in the ozone transport region (OTR). Although most of central and northern New Hampshire were not designated nonattainment for the 1997 8-hour ozone standard, all parts of the state are within the OTR and therefore all parts of New Hampshire are required to implement RACT.

Specifically, these areas are required to implement RACT on all sources covered by a Control Techniques Guideline (CTG) document and on all major sources of volatile organic compounds (VOCs) and nitrogen oxide (NO_X) emissions. A CTG is a document issued by EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category. A similar set of documents exists for NO_X control requirements; these are referred to as Alternative Control Techniques (ACT) documents. States are required to submit rules or negative declarations for CTG source categories, but not for sources in ACT categories although RACT must be imposed on major sources of NO_X, and some of those major sources may be within a sector covered by an ACT document.

On November 29, 2005, EPA published a final rule in the **Federal Register** that outlined requirements for areas found to be in nonattainment of the 1997 8-hour ozone standard (see 70 FR 71612). This rule, referred to as the ''Phase 2 Implementation rule,'' contains a description of what EPA's expectations are for states with RACT obligations. The Phase 2 Implementation rule indicated that states could meet RACT either through a certification that previously adopted RACT controls in its SIP-approved by EPA under the one-hour ozone NAAQS represent adequate RACT control levels for 8-hour attainment planning purposes, or through the establishment of new or more stringent requirements that represent RACT control levels.

On January 28, 2008, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consisted of information documenting how the State complied with RACT requirements for the 1997 8-hour ozone standard.[1] Several of the source-specific RACT orders relied on in New Hampshire's January 28, 2008 submittal have been updated since that time as noted in section III of this action.

On October 5, 2006, EPA issued four new CTGs which states were required to address by October 5, 2007 (71 FR 58745). Also, on October 9, 2007, EPA issued three more CTGs which states were required to address by October 9, 2008 (72 FR 57215). Furthermore, on October 7, 2008, EPA issued four additional CTGs which states were required to address by October 7, 2009 (73 FR 58841). New Hampshire's January 28, 2008 SIP revision and today's action do not address the state's obligations with regard to EPA's 2006, 2007, and 2008 CTGs. EPA intends to address those CTG obligations in a separate action in the near future.

II. Summary of New Hampshire's SIP Revisions

On January 28, 2008, New Hampshire submitted a demonstration that its regulatory framework for stationary sources met the criteria for RACT as defined in EPA's Phase 2 Implementation rule. The state held a public hearing on its RACT certification finding on October 20, 2006. New Hampshire's RACT submittal notes that the State's former status as a nonattainment area for the one-hour ozone standard resulted in the adoption of stringent controls for sources of VOC and NO_X including RACT level controls. Therefore, much of New Hampshire's submittal consists of a review of RACT controls adopted under the one hour ozone standard and an evaluation of whether those previously adopted controls still represent RACT.

The state's submittal identifies the specific control measures that have been previously adopted to control emissions from sources of VOC and NO_X emissions, and also describes updates made to existing rules to strengthen them so that they will continue to represent RACT. Additionally, section 3.3 of New Hampshire's RACT submittal identifies the CTG categories for which facilities do not exist within the state, and makes a negative declaration for these categories. The CTG categories for which New Hampshire makes a negative declaration are as follows:

1. Aerospace coatings
2. Organic waste process vents
3. Polystyrene foam manufacturing
4. Industrial wastewater

[1] New Hampshire's submittal is for the 1997 8-hour ozone standard and does not address the 0.075 ppm 2008 ozone standard.

5. Refinery vacuum producing systems, wastewater separators, and process unit turnarounds
6. Surface coating of large appliances
7. Factory surface coating of flat wood paneling
8. VOC leaks from petroleum refinery equipment
9. Manufacture of synthesized pharmaceutical products
10. Manufacture of pneumatic rubber tires
11. Large petroleum dry cleaners
12. Manufacture of high density polyethylene, polypropylene, and polystyrene resins
13. VOC equipment leaks from natural gas/gasoline processing plants
14. VOC fugitive emissions from synthetic organic chemical polymer and resin equipment
15. VOC emissions from air oxidation processes in synthetic organic chemical mfg. industry
16. Synthetic organic chemical mfg. industry distillation and reactor processes
17. Shipbuilding and ship repair operations

Regarding items 6 and 7 above, we note that New Hampshire's negative declarations for these sectors is with regard to the CTG's issued in 1977 for large appliances (EPA–450/2–77–034, 1977/12) and in 1978 for flat wood paneling (EPA–450/2–78–032, 1978/06). EPA updated the flat wood paneling CTG in 2006, and the large appliance surface coating CTG in 2007, and New Hampshire subsequently addressed these updated CTGs. However, in this rulemaking we are only acting on New Hampshire's negative declarations for the 1977 and 1978 versions of these CTGs.

Appendix A of New Hampshire's submittal contains a summary of information for each of EPA's CTG categories, and identifies the specific state rule, where relevant, that is in place, the effective date for each rule, and the date that EPA approved the rule into the New Hampshire SIP. Appendix B identifies the major VOC and NO_X sources in the state that are not covered by an ACT or CTG document, but are subject to RACT via source-specific RACT orders issued by the New Hampshire Department of Environmental Services (NH–DES). The state has issued source-specific orders containing control requirements for these facilities. The table within Appendix B identifies the effective date for each RACT order, and an indication of whether or not EPA had approved the order into the New Hampshire SIP. Table 1 below contains a list of the single source RACT orders that New Hampshire has adopted and submitted to EPA, but that we had not yet acted on as of the date of the state's RACT certification submittal. We note that the table within Appendix B of New Hampshire's submittal did not include an effective date for the order for Newington Energy LLC, as that order had not yet been issued when the state held the public hearing on its RACT certification in 2006. That order was subsequently issued by NH–DES with an effective date of June 20, 2007.

TABLE 1—RACT ORDERS NOT YET APPROVED INTO THE NH SIP

Company name	Pollutant	Final RACT order effective date
Concord Litho Group, Inc.	VOC	9/17/2007.
Hitchiner Manufacturing, Milford	VOC	6/20/2002.
Hutchinson Sealing Systems, Inc.	VOC	8/8/2002 (Updated 3/23/2012).
Kalwall Corp.—Manchester	VOC	11/20/2001.
Mectrol Corporation	VOC	6/16/2003 (Withdrawn 7/2/2009).
Metal Works, Inc.	VOC	12/22/2004.
Parker Hannifin Corporation, Chomerics	VOC	7/17/2002.
Polyonics	VOC	12/28/2007.
Sturm, Ruger & Company	VOC	10/13/2003.
Textile Tapes Corp. (amended orders)	VOC	4/19/2002; 8/10/2007.
TFX Medical, Inc.	VOC	8/7/2007.
Webster Valve, Inc.	VOC	4/20/2007.
Anheuser Busch	NO_X	5/9/2005.
Newington Energy, LLC	NO_X	6/20/2007.
PSNH, Schiller Station	NO_X	8/4/2006.
Waste Management of NH	NO_X	8/26/2002.

We provide a brief summary of each of the orders in Table 1, and identify the action we are taking on them in Section III.B of this direct final rule.

New Hampshire's certification notes that the RACT requirements apply to sources that have the potential to emit 50 tons per year or more of NO_X, and to sources with potential VOC emissions of between 10 and 50 tons per year or greater depending on the source category. Figures one and two of the state's submittal document the significant reduction in emissions that has occurred at sources subject to RACT in the state. NO_X and VOC emissions have fallen 77 percent and 59 percent, respectively, from stationary point sources since the RACT requirements contained within the CAA amendments of 1990 were promulgated.

New Hampshire's submittal notes that for the years 2003 through 2005 the state did not record any violations of the 1997 ozone standard, and the state's submittal concludes that tighter NO_X and VOC controls are therefore not necessary to bring the area into attainment.

On March 12, 2003, New Hampshire submitted revised versions of Env–A 800, Testing and Monitoring Procedures, Env–A 1204, VOC RACT, and Env–A 1211, NO_X RACT, to EPA and requested that these revised rules be incorporated into the New Hampshire SIP. Additional modifications to each of these rules were submitted to EPA as a SIP revision request on July 9, 2007.

On November 14, 2003, New Hampshire submitted a revised version of Env–A 900, Recordkeeping and Reporting Obligations, to EPA as a SIP revision request. More recently, on July 6, 2012, New Hampshire submitted an updated, revised version of Env–A 900 to EPA as a SIP revision request. On September 26, 2012, New Hampshire withdrew its November 2003 submission since its July 2012 submission of a revised version of Env–A 900 entirely superseded the earlier version of Env–A 900 included in its November 2003 submission.

III. Evaluation of New Hampshire's SIP Submittals

A. Evaluation of RACT Certification

EPA has evaluated the VOC and NO_X stationary source control regulations that New Hampshire cites as meeting RACT for the 1997 8-hour standard and agrees that the state's regulations are satisfactorily meeting EPA's RACT requirements for purposes of the 1997 8-hour ozone standard. EPA previously approved these NO_X and VOC RACT requirements into the New Hampshire SIP (See 62 FR 17087, April 9, 1997 for NO_X; See 63 FR 11600, March 10, 1998 and 67 FR 48033, July 23, 2002 for VOC), and in today's direct final rulemaking we are approving updates to several of these rules, and also approving single source RACT determinations for fifteen major sources of VOC and NO_X in the state.

We are determining that these regulatory elements and the resulting reduction in VOC and NO_X emissions from sources demonstrate that a RACT level of control has been implemented in the state. Additionally, we are approving the negative declarations New Hampshire submitted for the source categories identified in Section II of this document.

EPA published a clean data determination for New Hampshire's only 8-hour ozone nonattainment area in the **Federal Register** that documents that air quality monitoring data in the state currently meets EPA's 1997 ozone standard. The determination for the Boston-Manchester-Portsmouth moderate area was published on March 18, 2011 (76 FR 14805). The improvements in air quality represented by this clean data determination were brought about, in part, by the RACT program implemented by New Hampshire. Additional information about the revisions to New Hampshire's rules and the single source RACT orders we are approving today is contained below in section III.B and III.C.

B. Evaluation of Revised New Hampshire Rules

1. Revisions to VOC Rules and Single Source VOC RACT Orders

On March 12, 2003, New Hampshire submitted a revised version of its VOC RACT regulation, Env–A 1204, to EPA as a SIP revision request. The revised version of the VOC RACT rules removed provisions relating to petroleum refineries, as there are no such facilities in the state. Additionally, the state removed a section regarding an equivalent substitute control technique because a similar provision that requires submittal to EPA exists and was retained in the rule. Several minor updates to references and correction of errors were also made within the March 12, 2003 submittal.

On July 9, 2007, New Hampshire submitted additional updates to its VOC RACT regulations to EPA as a SIP revision request. The July 9, 2007 submittal consisted primarily of updates to the state's existing requirements for solvent metal cleaning that were made to match requirements recommended within a model rule adopted by the Ozone Transport Commission (OTC). The primary changes made to the rule consisted of adoption of expanded applicability of the state's existing rule to include anyone who sells VOC containing solvent for use in a cold cleaning machine, and a prohibition was added preventing certain items from being cleaned in a cold cleaning machine. In keeping with the model rule adopted by the OTC, New Hampshire's rule prohibits the use of solvents with a vapor pressure greater than 1.0 millimeter of mercury in cold cleaning operations. The addition of a vapor pressure limit makes the revised rule more stringent than the previous version of the rule approved by EPA into the New Hampshire SIP in 2002 (67 FR 48033), thus satisfying the anti-backsliding requirements of section 110(l) of the CAA. A number of minor updates and renumbering changes were also included in the July 9, 2007 submittal. We are approving New Hampshire's updated VOC RACT regulations as submitted to EPA on March 12, 2003, and modified on July 9, 2007.

As previously mentioned, on March 10, 1998 (63 FR 11600), EPA approved New Hampshire's VOC RACT requirements that the state had adopted in 1995 as part of its emission control strategy for the one-hour ozone standard. However, our March 10, 1998 action provided only a limited approval of Env–A 1204.27, the state's rule for major sources that are not covered by one of EPA's CTG documents. A final, full approval of Env–A 1204.27 was issued on July 23, 2002 (67 FR 48033), although that approval was limited to portions of the state located in the New Hampshire portion of the eastern Massachusetts serious one-hour ozone nonattainment area. Approval of Env–A–1204.27 in the remainder of the state was not granted at that time because New Hampshire had not issued single source RACT orders for all major sources of VOC and NO_X in the remainder of the state.

New Hampshire has now adopted RACT for all major sources, and we are approving those orders and providing a full statewide approval of New Hampshire's requirements for miscellaneous and multi-category sources within this direct final rule.

A brief description of the single source VOC RACT orders that we are approving in today's action is provided below. A number of these orders contain provisions for complying with RACT via purchase of, or generation of, emission reduction credits. New Hampshire has an adopted emissions credit trading rule, Env–A 3100, Discrete Emission Reduction Trading Program. However, EPA has not approved Env–A 3100 into the New Hampshire SIP. Therefore, we have evaluated the generation and use of DERs in each of these cases and believe that they represent a legitimate option for sources to comply with RACT. We are therefore approving their use as outlined in the individual orders being approved in this action. Additionally, any purchased credits used for RACT compliance must come from a source whose order is also federally approved.

Concord Litho Group

The Concord Litho Group operates a facility in Concord, New Hampshire where it uses an offset lithographic printing operation to produce greeting cards, brochures, magazines, and direct mail inserts. The company operates two regenerative thermal oxidizers to control VOC emissions from five of the seven printing presses at the facility. On September 17, 2007, NH–DES issued VOC RACT order ARD 07–003 to the company. The order requires that the VOC emissions from the dryer exhaust of the heat-set web offset lithographic presses either be reduced by 90% or have a total organics level of 20 parts per million or less. The company will meet these requirements by controlling VOC emissions with their two recuperative thermal oxidizers. The order allows the facility to comply by purchasing DERs during times that maintenance is being performed, or when an oxidizer malfunctions.

Hitchiner Manufacturing

The Hitchiner Manufacturing Company operates a casting foundry and ceramics molding operation in Milford, New Hampshire. In 2002, the facility ceased operation of a VOC emitting operation referred to as the Plant 2 ceramics molding process and was granted 29 tons in VOC emission reduction credits (ERCs) by NH–DES for this shutdown. NH–DES issued VOC RACT order ARD–02–001 to the facility on June 21, 2002. The order requires that the facility reduce its VOC

emissions by 81%, and caps annual VOC emissions at less than 50 tons per year. The facility will meet these obligations primarily by use of the ERCs generated by the shutdown of the Plant 2 ceramics molding process.

Hutchinson Sealing Systems, Inc.

Hutchinson Sealing Systems located in Newfields, New Hampshire, operates a facility that produces sealing systems, body seals, and rubber glass-run channels used in the automotive and other industries. On August 8, 2002, NH–DES issued VOC RACT order ARD–01–002 to the facility, and submitted it as a revision to the state's SIP on this same day. On March 23, 2012, NH–DES submitted an updated VOC RACT order identified as ARD–11–001 that replaced the prior order issued to the facility in 2002. The updated order indicates that the company will install and operate a catalytic oxidizer to control VOC emissions from some of the process lines at the facility. The updated order contains VOC content limits for motor vehicle weather-strip adhesive coatings, and an allowance for compliance to be met by using either DERs or ERCs. The company must also continue to research and test water based and/or high solids coatings as new products become available.

Kalwall Corporation

The Kalwall Corporation located in Manchester, New Hampshire, manufactures energy efficient window like structural components out of specially formulated, fiberglass reinforced material. The NH–DES developed VOC RACT order ARD–95–010 for the facility and submitted it to EPA on September 10, 1996, and we approved that order into the New Hampshire SIP in our March 10, 1998 final rulemaking mentioned elsewhere in this document. On June 25, 1999, NH–DES submitted an updated VOC RACT order for Kalwall numbered ARD–99–001 to replace the previously issued order, and requested the order be approved into the New Hampshire SIP. A minor update to this order was submitted to EPA on November 20, 2001, and we are approving that version of ARD–99–001 via this final rulemaking. The major aspects of the updated order establish VOC content limits for bonding agents used on IBSS process lines 1 and 2, for coatings used in the KWS process, for clear or transparent topcoats used in the KCRF process, and for pretreatment primers applied in the KCRF process. VOC RACT order ARD–99–001 also allows the company to comply by purchasing DERs as provided for by Env–A 3100 of New Hampshire's air regulations.

Mectrol Corporation

On June 16, 2003, NH–DES issued VOC RACT order ARD–03–002 to the Mectrol Corporation located in Salem, New Hampshire and submitted it to EPA as a SIP revision request. However, by letter dated July 2, 2009, NH–DES subsequently withdrew this request because the coating units that had been the subject of the order had been removed from the facility. Therefore, we are taking no action with regard to New Hampshire's June 16, 2003 SIP submittal request.

Metal Works, Inc

Metal Works, Inc., operates a facility in Londonderry, New Hampshire, where it is primarily engaged in the fabrication of sheet metal. The facility operates 5 spray booths, and these booths are the primary source of VOC emissions at the facility. On December 22, 2004, NH–DES issued VOC RACT order ARD–05–001. The order contains the following VOC content limits: for clear and transparent top coats 4.3 lbs VOC per gallon of coating, as applied, excluding water and exempt coatings; for coatings used in extreme environmental conditions, and for air dried coatings, 3.5 lbs VOC per gallon of coating; and for all other coatings, 3.0 lbs VOC per gallon of coating. The order also allows the company to comply with VOC RACT by using DERs.

Parker-Hanifan Corporation, Chomerics Division

The Chomerics Division of the Parker Hanifan Corporation located in Hudson, New Hampshire, produces coated fabrics, films, and other substrates for use in the electronics industry. NH–DES issued VOC RACT order ARD–03–001 to the company on July 18, 2002. The facility operates four continuous web coaters, and the VOC emissions from each are captured within a permanent total enclosure that meets the requirements of EPA Method 204. Exhaust from dryers on each line is fed to a catalytic oxidizer that is required to achieve a minimum destruction and removal efficiency for VOCs of 93%. The order contains monitoring and recordkeeping requirements for the catalytic oxidizer. The order also allows the company to comply by generating and using emission credits for compliance, and to comply via the purchase of DERs.

Polyonics

The Polyonics facility located in Westmoreland, New Hampshire, manufactures pressure sensitive tagging and labeling materials. The company operates a catalytic oxidizer to control VOC emissions from its two web gravure coaters. On December 28, 2007, NH–DES issued VOC RACT order ARD 07–004 to the company. The order requires that the company comply with a VOC content limit of 2.9 lbs VOC per gallon for its paper, fabric, film and foil coating operations. Alternatively, the company is allowed to comply by using the catalytic oxidizer, by averaging coating limits such that the weighted average complies with the 2.9 lbs VOC per gallon coating limit, or by using DERs.

Sturm, Ruger & Company

Sturm, Ruger & Company located in Newport, New Hampshire, produces a variety of steel investment castings in the manufacture of firearms. NH–DES issued VOC RACT order ARD–03–001 to the facility on October 13, 2003, and re-issued it in amended form shortly thereafter on December 1, 2003. The order contains VOC limits for coatings used in the facility's woodworking spray booths and paint mixing rooms, and also contains a number of work practice and housekeeping standards to minimize emissions. The order also contains a 10 gallon daily maximum use amount for touch-up and repair finishing materials, compliance standards for cold cleaning operations at the facility, and a 1.0 lb VOC per gallon limit for metal parts coating operations other than rust-proofing. The VOC emission rate from the company's rust-proofing operation is limited to 3.5 lbs VOC per gallon of coating, excluding water and exempt compounds. The company is also required to achieve an 81% reduction in VOC emissions from its flash de-wax process.

Textile Tapes Corporation

The Textile Tapes Corporation located in Gonic, New Hampshire, operates two coating lines that coat woven and non-woven materials with adhesive in the production of tapes and coated products. The NH–DES issued an initial VOC RACT order to the facility on December 9, 1996, and EPA approved that order into the New Hampshire SIP on March 10, 1998 (63 FR 11600). On August 31, 2007, NH–DES submitted an amended VOC RACT order to EPA as a SIP revision request. Since the initial order was issued in 1996, a number of revisions have been made to the order, as follows. In 1998, the company requested and was granted permission to use a generic release coating that had not been addressed in the order issued in 1996. In 1999, the company requested

permission to install a recuperative thermal oxidizer and to replace the dryer on coating line 1B. NH–DES granted permission for these modifications and issued an amended order to Textile Tapes on April 19, 2002, and submitted the amended order to EPA as a SIP revision request.

In 2006, Textile Tapes requested permission to use a coating that exceeds the 2.9 lb/gal emission limit required by Env–A 1204.10(c) of New Hampshire's air pollution control regulations. NH–DES required the company to purchase DER credits as provided for within Env–A 3100 of New Hampshire's air pollution control regulations. The facility complied by purchasing 4 DER credits from the Public Service Company of New Hampshire on October 3, 2006. New Hampshire issued amended order ARD–96–001 to Textile Tapes with an effective date of August 10, 2007. The amended order allows the company to self-generate DER credits needed to compensate for their non-compliant coating via the over-control achieved by the recuperative thermal oxidizer. New Hampshire submitted the amended order to EPA as a SIP revision request on August 31, 2007, and we are approving the amended order into the New Hampshire SIP in this direct final rulemaking.

TFX Medical Incorporated

TFX Medical Incorporated operates a facility in Jaffrey, New Hampshire, where it manufactures tubing for automotive and medical applications and devices. The manufacturing process involves extruding a mixture of polytetrafluoroethylene resin with a hydrocarbon solvent and then curing the tubing in ovens. The facility operates a recuperative thermal oxidizer to control VOC emissions from the extruder lines and curing ovens. On August 7, 2007, NH–DES issued VOC RACT order ARD 07–002 to the company. The order requires the company to reduce VOC emissions by a minimum of 81%, and the company achieves this obligation primarily by use of the thermal oxidizer. During times that the thermal oxidizer is not able to meet this control requirement, the order allows the company to comply by using DERs.

Webster Valve, Incorporated

Webster Valve, Incorporated operates a facility in Franklin, New Hampshire, that is engaged in the manufacture of valves, regulators, and backflow prevention devices for plumbing, heating, and water quality applications. There are 6 spray booths at the facility where various coatings are applied to the product. On March 21, 2007, NH–DES issued VOC RACT order ARD 07–001 to the company. The order contains the following VOC content limits: for clear and transparent top coats 4.3 lbs VOC per gallon of coating, as applied, excluding water and exempt coatings; for coatings used in extreme environmental conditions, and for air dried coatings, 3.5 lbs VOC per gallon of coating; and for all other coatings, 3.0 lbs VOC per gallon of coating. The order also allows the company to comply with VOC RACT by using DERs.

EPA agrees with New Hampshire's RACT determinations for the eleven sources listed above, and therefore we are approving the single source VOC RACT orders for these sources, with the exception of the order for the Mectrol Corporation, as NH–DES requested withdrawal of the SIP revision for that facility. In instances where New Hampshire has required air pollution capture and control equipment, a minimum 81% reduction has been required to be achieved. The VOC RACT orders contain acceptable levels of monitoring, recordkeeping and reporting provisions to enable the state to effectively track compliance at these facilities. Additionally, we are also fully approving Env–A 1204.27, New Hampshire's requirements for miscellaneous and multi-category sources, for all parts of the state.

2. Revision to NO_X Rules and Single Source NO_X RACT Orders

On March 12, 2003, New Hampshire submitted a revised version of its NO_X RACT regulation, Env–A 1211, to EPA as a SIP revision request. As compared to the previous, SIP-approved version of the rule, the version submitted in 2003 contained lower NO_X limits for gas-fired combustion turbines, and revisions applicable to emergency generators. The main update made to the rule consisted of a change made to the NO_X RACT requirements for gas-fired turbines constructed after May 27, 1999. A change was made to account for certifications that facilities were obtaining from manufacturers that these units emitted NO_X at levels less than New Hampshire's NO_X RACT limits. New Hampshire, therefore, made its emission limits for these units more restrictive. The new NO_X emissions limits for these units are found at Env–A 1211.06(d), and limit average hourly NO_X emissions to 25 parts per million, corrected to 15% oxygen, or alternatively, 0.092 pounds per million British thermal unit (BTU). Since the revised rule's NO_X limits for gas-fired turbines constructed after May 25, 1999 are more stringent than the previous SIP-approved version, the anti-backsliding requirements of section 110(l) of the CAA are satisfied.

Regarding the emergency generator related revisions, the state noted that after the initial provisions for emergency generators were adopted in 1994, NH–DES received numerous complaints that an aspect of the rule regarding ignition timing was causing many facilities to encounter difficulty ensuring that a continuous supply of electricity could be provided by the generator. New Hampshire prepared an analysis of the emissions impact that removal of this provision would cause and determined that the impact would be minimal, and so a change was made to the emergency generator regulation providing relief from this provision.

On July 9, 2007, New Hampshire submitted additional revisions to Env–A 1211 as a SIP revision request. The revisions included a change to the testing requirements for auxiliary boilers with a heat input of between 5 million and 50 million BTUs, removed a provision that had allowed such boilers to meet a less stringent NO_X emission limit once emissions exceeded 50 tons per year, and removed a requirement that continuous emission monitors (CEMs) be used on small boilers.

In today's action, we are approving the updated version of Env–A 1211 that New Hampshire submitted on March 12, 2003, and updated on July 9, 2007, into the New Hampshire SIP. It should be noted that additional NO_X requirements within Env–A 1211 were subsequently submitted by NH–DES and approved by EPA as part of New Hampshire's Regional Haze SIP (77 FR 50602, August 22, 2012).

Additionally, we are approving NO_X RACT orders for four facilities. A brief description of each order is provided below.

Anheuser Busch

Anheuser Busch operates a brewery in Merrimack, New Hampshire. The significant NO_X emitting devices at the facility consist of three oil and natural gas-fired boilers, and also an open flare. On May 9, 2005, NH–DES issued NO_X order ARD–05–001 to the company. The order requires that the company comply with a NO_X limit of 0.068 lbs NO_X per million BTUs for the open flare. Regarding the boilers, the order requires an emission rate of 0.25 lbs NO_X per million BTU on a 24-hour average when burning natural gas or a combination of natural gas and biogas. An emission rate of 0.40 lbs NO_X per million BTU on a 24-hour average must be met when oil or a combination of oil and biogas is

being used. Additionally, the order requires testing of a bio energy recovery system the facility intends to install at the facility.

Newington Energy, LLC

Newington Energy operates a 525 megawatt combined cycle electric generation facility in Newington, New Hampshire. Other equipment at the facility includes a natural gas-fired auxiliary boiler, eight natural gas-fired fuel gas heaters, one diesel fired emergency generator, and one diesel fired firewater pump. On June 20, 2007, NH–DES issued NO_X RACT order ARD–04–001 to the company. The order requires the company to install and operate low NO_X burners on six fuel gas heaters, and to also comply with a NO_X emission concentration of 9.9 ppm and an emission rate of 0.012 lbs NO_X per million BTU for these gas heaters.

PSNH, Schiller Station

The Public Service Company of New Hampshire's (PSNH) Schiller Station is a 153 megawatt fossil fuel fired electric generating station located in Portsmouth, New Hampshire. Electric power is produced at the facility by three utility boilers, one combustion turbine that operates as a load shaving unit, and one emergency generator. On August 4, 2006, NH–DES issued NO_X RACT order ARD–06–001 to the company. The order requires that the boiler equipped with a circulating fluidized bed install and operate a selective non-catalytic reducing (SNCR) control device to meet an emission limit of 0.975 lbs NO_X per million BTU. Additionally, the order requires that the facility continue to comply with conditions D.1.c and D.1.d of NO_X RACT order ARD–98–001 pertaining to a non-ozone season NO_X cap of 8,208 tons and an ozone season NO_X cap of 3,727 tons for the combined emissions from units identified as MK1, MK2, NT1, SR4, SR5, and SR6.

Waste Management

Waste Management operates a facility in Rochester, New Hampshire that consists of two, closed municipal solid waste landfills, one active municipal solid waste landfill, a materials recovery facility, a leachate treatment plant, and two landfill gas to energy plants. On August 26, 2002, NH–DES issued NO_X RACT order ARD 01–001. New Hampshire submitted an updated order to EPA as a SIP revision request on August 2, 2012. We are approving the updated order in today's action. The order provides performance standards for the three flares at the facility, and also provides testing, recordkeeping and reporting requirements for the facility to follow.

EPA agrees that the NO_X provisions in the orders for the four facilities outlined above constitute RACT for these facilities.

3. Revisions to Testing and Monitoring Procedures

On March 15, 1983, EPA approved New Hampshire's Env–A 800, testing and monitoring requirements for air pollution sources into the New Hampshire SIP. Additional updates to these requirements were subsequently incorporated in the New Hampshire SIP as noted within 40 CFR 52.1525.

On March 12, 2003, New Hampshire submitted revisions to Env–A 800 to EPA as a SIP revision request. The revisions include simplifications to some procedures and delineates what methods should be used when monitoring emissions and checking the accuracy of CEM systems. Additionally, the amended rule contains a requirement that a relative accuracy test audit (RATA) be performed annually on each CEM system. If the system does not pass the RATA, the new rule requires that another full audit be conducted, whereas the prior version of the rule only required a partial audit be done in such circumstances. The state submitted additional revisions to Env–A 800 to EPA as a SIP revision request on July 9, 2007. The July 9, 2007 submittal contained revisions to Env–A 803.03 and Env–A 803.04, primarily with regard to requirements for small boilers and emergency generators. We are approving New Hampshire's revised version of Env–A 800 as submitted on March 12, 2003 and revised on July 9, 2007, with the exception of Env–A 807 pertaining to requirements regarding testing and monitoring for opacity. We are taking no action with regard to Env–A 807.

4. Revisions to Recordkeeping and Reporting Requirements

On March 15, 1983, EPA approved Env–A 900, recordkeeping and reporting requirements for air pollution sources, into the New Hampshire SIP. Additional updates to these requirements were subsequently incorporated in the New Hampshire SIP as noted within 40 CFR 52.1525.

On November 14, 2003, New Hampshire submitted an updated version of Env–A 900, Owner or Operator Recordkeeping and Reporting Obligations, to EPA as a SIP revision request. New Hampshire's submittal was prompted by their re-adoption of the rule with amendments. The amendments included clarifying language, a re-alignment of the reporting date for the annual emission statement requirement, a repeal of a provision requiring reporting of malfunctions and replacement of that provision with a recordkeeping and reporting requirement for permit deviations, and a re-organization of the previously adopted rule.

On July 6, 2012, New Hampshire submitted an updated version of Env–A 900, Owner or Operator Recordkeeping and Reporting Obligations, to EPA as a SIP revision request. The revised version of Env–A 900 completely supersedes the older version of Env–A 900 that New Hampshire had submitted in 2003.[2] The revisions included clarification to a number of recordkeeping provisions, and also amended the requirements for fuel-users regarding fuel sulfur content records. Additionally, the general reporting requirements for Title V sources that previously had been stated in each permit were added to Env–A 900. New Hampshire requested that all portions of the revised Env–A 900 be incorporated into its SIP with the exception of certain provisions that are required by 40 CFR Part 70 for Title V sources.

At this time, we are not taking action on Env–A 912 (Alternative Time Periods), nor on the provisions required relating to Title V sources that New Hampshire requested not be incorporated into its SIP.

In today's action, we are approving New Hampshire's July 6, 2012 revised version of Env–A 900, with the exceptions of (1) the provisions relating to 40 CFR Part 70 contained within Env–A 907 and Env–A 911, and (2) the provisions of Env–A 912 (Alternative Time Periods).

IV. Final Action

EPA is approving SIP revisions submitted by the State of New Hampshire. EPA is approving New Hampshire's January 28, 2008 RACT certification and negative declarations as meeting RACT for the 1997 8-hour standard. Additionally, we are approving the following portions of New Hampshire's air pollution control requirements: Env–A 800, Testing and Monitoring Procedures, with the exception of Env–A 807, Testing for Opacity of Emissions; Env–A 900, Owner or Operator Recordkeeping and Reporting Obligations, with the exceptions of certain provisions within Env–A 907 and Env–A 911, and the entirety of Env–A 912; Env–A 1200, Volatile Organic Compound RACT; and,

[2] On September 26, 2012, New Hampshire withdrew its November 2003 submission.

Env–A 1211, Nitrogen Oxide RACT. Additionally, we are approving individual VOC RACT orders for the Concord Litho Group, Hitchiner Manufacturing, Hutchinson Sealing Systems, Kalwall Corporation, Metal Works Incorporated, Parker Hannifin Corporation, Polyonics, Sturm Ruger & Company, Textile Tapes Corporation, TFX Medical, and Webster Valve Incorporated. NO_X RACT orders are being approved for Anheuser Busch, Newington Energy, PSNH-Schiller Station, and Waste Management of New Hampshire.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 4, 2013 without further notice unless the Agency receives relevant adverse comments by December 5, 2012.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 4, 2013 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 EE—New Hampshire

■ 2. § 52.1520 is amended by:

■ a. In the table in paragraph (c), revising entries to existing state citations for Env–A 800, Env–A 900, and Env–A 1200.

■ b. Adding 15 new entries to the end of the table in paragraph (d).

■ c. Adding one new entry to the end of the table in paragraph (e).

The revisions and additions read as follows.

§ 52.1520 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
*	* *	*	* *	*
Env–A 800	Testing and Monitoring Procedures.	10/31/2002; 12/22/2004	11/5/2012 [Insert **Federal Register** page number where the document begins].	Approved Sections Env–A 801 through 806, 808 and 809 of New Hampshire's air emission testing and monitoring requirements.
Env–A 900	Owner or Operator Obligations.	04/21/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Approved Env–A 900 through 906, 907.01(a) and (b)(1) through (b)(4), 907.02 and .03, 908 through 910, and 911.01 through 911.04.
*	* *	*	* *	*
Env–A 1200	Prevention, Abatement, and Control of Stationary Source Air Pollution.	10/31/2002; 12/22/2004; 02/26/2005.	11/5/2012 [Insert **Federal Register** page number where the document begins].	Approved Env–A 1200, containing New Hampshire's VOC and NO_X RACT requirements.
*	* *	*	* *	*

[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.

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/ § 52.1535 citation
*	* *	*	* *	*
Concord Litho Group	ARD–07–003	9/17/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Concord, NH.
Hitchiner Manufacturing	ARD–02–001	6/21/2002	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Milford, NH.
Hutchinson Sealing Systems.	ARD–01–002	8/8/2002	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Newfields, NH.
Kalwall Corporation	ARD–99–001	11/20/2011	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Manchester, NH.
Metal Works	ARD–05–001	12/22/2004	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Londonderry, NH.
Parker-Hanifan Corporation	ARD–03–001	7/18/2002	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Hudson, NH.
Polyonics	ARD–99–001	12/28/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Westmoreland, NH.
Sturm, Ruger & Company	ARD–03–001	12/1/2003	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility located in Newport, NH.

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/ § 52.1535 citation
Textile Tapes Corporation	ARD–96–001	8/10/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Gonic, NH.
TFX Medical Incorporated	ARD–07–002	8/7/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Jaffrey, NH.
Webster Valve	ARD–07–001	3/21/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source VOC RACT order for facility in Franklin, NH.
Anheuser Busch	ARD–05–001	5/9/2005	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source NO_X RACT order for facility in Merrimack, NH.
Newington Energy, LLC	ARD–04–001	6/20/2007	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source NO_X RACT order for facility in Newington, NH.
PSNH, Schiller Station	ARD–06–001	8/4/2006	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source NO_X RACT order for facility in Portsmouth, NH.
Waste Management	ARD–01–001	8/26/2002	11/5/2012 [Insert **Federal Register** page number where the document begins].	Single source NO_X RACT order for facility in Rochester, NH.

* * * * * * *

[2] 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.

(e) *Nonregulatory.*

NEW HAMPSHIRE NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanation
*	*	*	*	*
Certification for RACT for the 1997 8-Hour Ozone Standard.	Statewide	1/28/2008	11/5/2012 [Insert **Federal Register** page number where the document begins].	New Hampshire submitted documentation that RACT requirements were in place for sources of VOC and NO_X for purposes of the 1997 8-hour ozone standard.

* * * * * * *

[3] 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.

[FR Doc. 2012–26759 Filed 11–2–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0398; FRL–9745–8]

Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; 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 Arizona 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 Clean Air Act requires that each State adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA. Arizona has met most of the applicable requirements. Where EPA is disapproving, in part, Arizona's SIP revisions, several of the deficiencies have already been addressed by a federal implementation plan (FIP). The remaining deficiencies are subject to 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 Arizona to develop such a SIP revision.

DATES: *Effective Date:* This final rule is effective on December 5, 2012.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2012–0398. The index to the docket for this action is available electronically at *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., 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: Jeffrey Buss, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 947–4152, *buss.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. Background
II. EPA's Response to Comments
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I. Background

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 June 27, 2012 (77 FR 38239), EPA proposed to approve in part and disapprove in part several SIP revisions submitted by the Arizona Department of Environmental Quality (ADEQ) 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. Additionally, on July 30, 2012 (77 FR 44551), EPA proposed to approve the portion of the Arizona Infrastructure SIP pertaining to section 110(a)(2)(D)(i)(I) concerning interstate transport for the 2006 24-hour $PM_{2.5}$ NAAQS.[4] Also on July 30, 2012 (77 FR 44555), EPA proposed to partially approve and partially disapprove the portion of the Arizona Infrastructure SIP pertaining to the conflict of interest provision in section 110(a)(2)(E)(ii). ADEQ submitted SIP revisions to EPA on September 18, 2008 (''2008 Infrastructure Analysis'') and October 14, 2009 (''2009 Infrastructure Analysis'') to address all of the CAA section 110(a)(2) requirements, except for section 110(a)(2)(G),[5] and a proposed SIP revision submitted on June 1, 2012.[6] The proposed SIP served as a supplement to the prior two 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 June 1, 2012 proposed SIP revision was adopted on August 24, 2012 and submitted to EPA on the same day (''2012 Submittal'').

We are taking final action on all three submittals because they collectively 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 ''Arizona's Infrastructure SIP Submittals.''

The rationale supporting EPA's actions, including the scope of infrastructure SIPs in general, is explained in the Notices of Proposed Rulemakings (NPRs) and associated technical support documents (TSDs) [7] and will not be restated here. The TSDs are available online at *www.regulations.gov,* Docket ID number EPA–R09–OAR–2012–0398.

II. EPA's Response to Comments

The public comment period for our proposal published in the **Federal Register** on June 27, 2012 (77 FR 38239) started at publication and closed on July 27, 2012. The public comment period for our proposals of July 30, 2012 (77 FR 44551, concerning interstate transport

[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).

[4] EPA previously approved an earlier interstate transport submittal by Arizona for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS at 72 FR 41629 (July 31, 2007).

[5] In a separate rulemaking, EPA proposed to fully approve Arizona's SIP to address the requirements regarding air pollution emergency episodes in CAA section 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. 77 FR 21911 (April 12, 2012). The final rule for this action was signed on July 26, 2012. While we are awaiting publication in the **Federal Register**, a prepublication copy of that final rule is available in the docket for today's rulemaking.

[6] On June 14, 2012 ADEQ submitted a letter requesting withdrawal of several statutes included in the June 1, 2012 proposed SIP revision. *See* letter dated June 14, 2012 from Eric C. Massey, Air Quality Director, Arizona Department of Environmental Quality, to Jared Blumenfeld, Regional Administrator, EPA Region 9.

[7] Each of our three proposed rules had an associated TSD available at *www.regulations.gov* under docket ID number EPA–R09–OAR–2012–0398. The three TSDs are as follows: (1) ''Technical Support Document: Evaluation of Arizona's Infrastructure SIP for the 1997 8-hour Ozone, the 1997 $PM_{2.5}$, and the 2006 $PM_{2.5}$ NAAQS,'' June 15, 2012 (document ID number EPA–R09–OAR–2012–0398–0003); (2) ''Technical Support Document for EPA's Proposed Action on the State of Arizona's 2009 Infrastructure State Implementation Plan (Transport Portion) for the 2006 24-hour Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standard,'' July 2012 (document ID number EPA–R09–OAR–2012–0398–0033); and (3) ''Technical Support Document: EPA Evaluation of Arizona Provisions for Section 110(a)(2)(E)(ii)/Section 128 Conflict of Interest Requirements,'' July 2012 (herein, ''Section 128 TSD'') (document ID number EPA–R09–OAR–2012–0398–0075).

for the 2006 24-hour $PM_{2.5}$ NAAQS; and 77 FR 44555, concerning conflict of interest requirements) started at publication in the **Federal Register** on July 30, 2012 and closed on August 29, 2012.

During the respective comment periods we received one comment letter from ADEQ (''ADEQ comment letter''), which concerned the requirements of CAA sections 110(a)(2)(E)(ii) and 128.[8] In our July 30, 2012 notice on these requirements (77 FR 44555), we proposed to partially approve and partially disapprove a SIP revision submitted by ADEQ to address the requirements of CAA section 110(a)(2)(E)(ii) for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS (77 FR 44555). In particular, we proposed to find that the statutes submitted by ADEQ met nearly all the requirements of CAA section 128, and therefore proposed to partially approve the submittal with respect to CAA section 110(a)(2)(E)(ii). However, with respect to the air quality hearing boards in Maricopa, Pima, and Pinal counties [hereinafter ''County Boards''], we proposed to determine that the provisions submitted by ADEQ in its 2009 and 2012 SIP revisions did not adequately address all of the requirements of CAA section 128(a)(1). We have summarized the ADEQ comment letter in three comments, and have responded to each, below.

Comment #1: ADEQ disagrees with EPA's assessment that the statutes and regulations provided in its supplementary submittal of June 1, 2012 do not apply to enforcement orders and asks EPA to approve the State's submittals with respect to CAA section 110(a)(2)(E)(ii). The State argues that the statutes it submitted, ''in particular ARS [sections] 38–101 and 38–501 through 39–511, * * * apply to all public agency officers and employees, whether at the State, County, or City level'' and that ARS 38–503(B) forbids public officers and employees having a conflict of interest in any decision of the agency from participating in that decision. In other words, ''[u]pon recusal of each person with a conflict of interest, all of the members remaining who are authorized lawfully to make the decision represent the public interest and do not derive any significant income from parties subject to the permits or enforcement orders at issue.'' ADEQ notes that ARS 49–478 (''Hearing board'') also applies to the counties and that there is ''no gap in coverage of these requirements'' between the state statutes and the county regulations. The State highlights the disclosure provisions of ARS 38–508, including the alternate measures implemented when a conflict exists, and notes that ''not all conflicts of interest can be identified or even exist at the time of appointment to a board or agency.''

Response #1: As outlined in the TSD for our proposal notice, we agree with ADEQ that Arizona's conflict of interest statutes (ARS Title 38, Chapter 3, Article 8)[9] apply to all public agency officers and employees, whether at the State, County, or City level, that approve permits or enforcement orders. Furthermore, we agree that the term ''any decision of a public agency'' in Arizona under ARS 38–503(B) encompasses the approval of both permits and enforcement orders. However, we do not agree that the board membership requirements of section 128(a)(1) are adequately addressed by the recusal requirement of ARS 38–503(B). The plain language of section 128(a)(1) establishes requirements regarding membership on a board, and not merely a requirement regarding a member's action on any particular permit or enforcement order.

Section 128(a)(1) of the CAA provides: ''Each applicable plan shall contain requirements that * * * any board or body which approves permits or enforcement orders under [the Act] shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under [the Act].'' Two elements of this provision prevent it from being satisfied by recusal alone.

First, the ''public interest'' and ''significant income'' requirements of section 128(a)(1) apply to a ''majority of members'' of a ''board or body which approves permits or enforcement orders under [the CAA].'' The use of the plural in ''permits'' and ''orders'' tends to indicate that the relevant board or body is defined by its authority to approve permits and enforcement orders, and not by the particular subset of the board acting on a single given permit or enforcement order. A board member may recuse himself from a particular permit or enforcement order proceeding in order to avoid a conflict of interest and yet remain a member of that board. Under these circumstances, his conflict of interest must still be considered in determining whether the board as a whole meets the majority membership requirement of section 128(a)(1).

Second, the ''significant portion of income'' requirement is determined by reference to ''persons subject to permits or enforcement orders''. A permit holder is legally bound by a permit and is therefore ''subject to'' it. Similar reasoning applies to a person legally bound by a final enforcement order. Any reasonable interpretation of ''subject to'' must at a minimum include persons already legally bound by a final permit or final enforcement order. Yet a recusal requirement, such as that provided by ARS 38–503(B), fails to ensure that a majority of members do not derive a significant portion of their income from persons who already have permits or are already under a final enforcement order.

Thus, even assuming, for argument's sake, that ARS 38–503(B) could meet the ''public interest'' requirement of section 128(a)(1), it clearly does not, by itself, fulfill the ''significant income'' requirement. This interpretation is consistent with EPA's existing guidance on Section 128. In particular, in 1978, EPA issued a guidance memorandum[10] that suggested definitions of certain terms in section 128. Although the guidance did not specifically mention recusal, it did suggest that the term ''persons subject to permits or enforcement orders under this Act'' includes, among others, ''any individual, corporation, partnership, or association who holds * * * any permit, or who is * * * subject to any enforcement order under the [Act]''. In other words, EPA's guidance recommended that ''persons subject to permits or enforcement orders'' should include those persons legally bound to a permit or enforcement order. The guidance also suggested that the term ''majority of members'' be defined as ''a majority of all members of a board or body having or sharing authority to approve permits or enforcement orders under the [CAA], and a majority of members making up any panel of fewer than all members (including panels of a single member) where individual permits or orders are considered by such a panel''. Thus, EPA interprets the statutory language of section 128(a)(1) as

[8] For a copy of the comment letter, *see* document number EPA–R09–OAR–2012–0398–0079 in *www.regulations.gov* under docket ID EPA–R09–OAR–2012–0398.

[9] EPA proposed to approve ARS Title 38, Chapter 3, Article 8 (''Conflict of Interest of Officers and Employees'') statutes on conflict of interest, as well as several statutes related to hearing boards and orders of abatement, into the Arizona SIP with respect to the requirements of CAA section 128. For the listing of the specific statutes, *see* 77 FR 44555 at 44558. The final rule approving these statutes into the SIP is happening concurrent with today's action.

[10] Memorandum from David O. Bickart, Deputy General Counsel, to Regional Air Directors, ''Guidance to States for Meeting Conflict of Interest Requirements of Section 128,'' March 2, 1978.

requiring a majority of members of the entire board to meet the public interest and significant income requirements. EPA's guidance reflected that reading of the statute.

While we agree that, at the time of appointment to a board or agency, it is not possible to identify future conflicts of interest that may result from future permits or enforcement orders, we note that it *is* possible to identify a prospective or current board member's interest in current permit holders and persons currently under final enforcement orders. Thus, this particular part of ADEQ's comment letter is not directly relevant to the deficiency in question.

Arizona's conflict of interest statutes thus leave a gap with respect to the CAA section 128(a)(1) requirement that boards that approve permits or enforcement orders have ''at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under [the Act].'' However, Arizona's county hearing board statute, ARS 49–478, which we proposed to approve and thus to incorporate into the Arizona SIP, requires that, for county air quality hearing boards, ''[a]t least three [of five] members shall not have a substantial interest, as defined in [ARS] 38–502, in any person required to obtain a permit pursuant to this article.'' Thus, ARS 49–478 partially fills the gap between the Arizona conflict of interest statutes and the board membership requirements of CAA section 128(a)(1) by establishing a majority membership requirement.

As noted in our proposal, Pima County Code 17.04.190 extends this majority membership requirement to interests in persons subject to enforcement orders. *See* 77 FR 44555 at 44557. Such a provision could be submitted for incorporation into the Arizona SIP. However, Arizona has not submitted this or other provisions for incorporation into the SIP that would require that a majority of members of the County Boards represent the public interest and do not derive any significant portion of their income from persons subject to enforcement orders. Therefore, we are finalizing our partial approval and narrow, partial disapproval as proposed.

Comment #2: ADEQ states that EPA failed to comply with section 552 of the Administrative Procedure Act (APA), which requires publication in the **Federal Register** of amendments and revisions to substantive rules of general applicability and statements of general policy or interpretations of general applicability formulated and adopted by the agency. Specifically, ADEQ asserts that EPA has not issued guidance of general applicability on CAA section 128 since 1978 and that the 1978 guidance memo was ''severely lacking.'' The State references footnote #5 of our proposal (*see* 77 FR 44555 at 44556) and states that ''EPA lacks authority to single out Arizona and create specific retroactive guidance applicable to it, after [Arizona] has submitted the required SIP and SIP Supplement(s)'' and that EPA bears responsibility to be transparent and predictable in the planning process. ADEQ states that EPA proposes to change certain interpretations of section 128 by proposing interpretations on a ''case-by-case basis for individual states'' and that such a process violates APA section 552. Finally, by reference to EPA's infrastructure SIP rulemaking on Hawaii that we cited in our Arizona section 128 proposal, ADEQ states that EPA did not provide public notice and opportunity to comment on proposed amendments or revisions to the 1978 guidance.

Response #2: We do not agree that our action violates the APA. While EPA understands ADEQ's interest in having EPA issue comprehensive, generally applicable guidance on section 128, it is not always possible to anticipate all potential issues or questions that may arise in reviewing SIP submittals in advance of the deadlines for such SIP submittals. Therefore, it is often necessary for EPA to make certain judgments about proper application of the statutory requirements of the CAA on a case-by-case basis, as it acts on individual SIP submissions. The notice-and-comment rulemaking procedures followed by EPA in acting on SIP submissions allow for states and other interested parties to weigh in on these case-by-case judgments. This process is what naturally follows when EPA issues guidance making recommendations concerning how states could correctly comply with the statute, but new issues arise in the application of the guidance in rulemaking on a SIP submission.

In this case, the interpretations referred to in our proposal and set out in our TSD [11] were intended to clarify previously issued guidance pertaining to section 128 in relation to the Arizona infrastructure SIP. In particular, we wished to clarify that the requirements of 128(a)(1) apply only to boards or bodies composed of multiple individuals and do not apply where a single individual approves permits or enforcement orders under the CAA. As explained in the TSD for our proposal, this interpretation derives from the text of section 128 itself (*see* TSD at pages 1–3). However, the 1978 memorandum suggests a definition of ''board or body'' that includes ''any individual * * * authorized to approve permits or enforcement orders under the Clean Air Act.'' In Arizona's case, a strict adherence to the recommendations of the guidance would have rendered the Director of ADEQ, the state administrative law judges and the county controls officers all subject to the ''public interest'' and ''significant income'' requirements of 128(a)(1). As explained in the TSD for our proposal, this interpretation seems inconsistent with the plain language of the statute; we therefore instead proposed and took comment on the interpretation that subsection 128(a)(1) should not apply to heads of executive agencies who approve permits or enforcement orders. Similarly, the other interpretations of the statute set forth in our TSD were intended to clarify ambiguities left by the recommendations of the 1978 guidance, so that we could properly evaluate Arizona's submittal under the requirements of the Act.

While we do not necessarily agree that these interpretations are subject to the requirements of APA section 552, we note that our proposal, as published in the **Federal Register**, specifically referred to these interpretations (*see* 77 FR 44555 at 44556), and that we explained these interpretations in detail in the TSD available in the docket for our proposal (*see* TSD at pages 1–3). Moreover, the proposed interpretations in our proposal on Arizona are consistent with other recent notices that EPA has published in the **Federal Register**.[12]

Comment #3: ADEQ claims that compliance with ''EPA's unauthorized amendment or revision to its 1978 guidance is practically infeasible'' because EPA's ''revised or amended interpretation has not occurred until after the 2012 legislature has adjourned.'' As such, the State claims

[11] Footnote 3 of ADEQ's comment letter indicates that ADEQ was unable to find explanation of EPA's reasoning in the TSD. It appears that ADEQ was looking at the more general TSD associated with the earlier proposal on other portions of Arizona's infrastructure SIP (i.e., 77 FR 38239, June 27, 2012, docket ID EPA–R09–OAR–2012–0398, document number EPA–R09–OAR–2012–0398–0003) rather than the separate Section 128 TSD, which was available at *www.regulations.gov* (i.e., document number EPA–R09–OAR–2012–0398–0075, under the same docket ID). Thus, while this misunderstanding is unfortunate, we disagree that our TSD was ''lacking clarity'' or that our explanation did ''not appear under that specific section in the TSD,'' as asserted by ADEQ.

[12] E.g., 77 FR 21913, April 12, 2012 (for Hawaii); and 77 FR 22540, April 16, 2012 (for North Dakota).

that it did not have the opportunity to revise its statutes or amend its prior submittal of October 14, 2009 or parallel process submittal of June 1, 2012 prior to the submittal deadline.

Response #3: For the reasons explained in Response #2, we disagree with ADEQ's assertion that EPA has made ''unauthorized amendment or revision to its 1978 guidance.'' With respect to ADEQ's argument regarding timing of the legislative session and opportunity to revise statutes or SIP submittals, we disagree that compliance with CAA section 128, in light of the 1978 guidance and the clarifying interpretations presented in our proposal, is practically infeasible, to the extent that ''practical infeasibility'' is even an allowable consideration in EPA's action on a SIP submission.

Our final, partial disapproval triggers a two-year deadline for EPA to promulgate a federal implementation plan (FIP) for the identified deficiency. However, the State can remedy the deficiency prior to such FIP promulgation. If ADEQ can submit a SIP revision that meets EPA approval within the next two years, EPA's obligation to promulgate a FIP would be discharged.

As noted in the TSD, the CAA requires that section 128 must be implemented through SIP-approved, federally enforceable provisions. However, the Act does not prescribe the exact means of implementation. The state and counties now have the opportunity to consider statutory or regulatory revisions to submit to EPA as a SIP revision to remedy this narrow deficiency. We stand ready to work with ADEQ and Maricopa, Pima, and Pinal counties to develop this revision.

III. Final Action

EPA is approving in part and disapproving in part the Arizona Infrastructure SIP Submittals for the 1997 ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. EPA is approving the Arizona Infrastructure SIP 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)(I): Interstate transport (for 2006 24-hour $PM_{2.5}$ NAAQS).[13] [14]
- Section 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(E)(i): Adequate resources and legal authority.
- Section 110(a)(2)(E)(ii) (in part): Conflict of interest.
- Section 110(a)(2)(E)(iii): State oversight of local or regional government agencies.
- Section 110(a)(2)(F)(in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes (for 1997 and 2006 $PM_{2.5}$).
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Consultation with government officials and public notification.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

In addition, we are approving into the SIP certain statutory and regulatory provisions included in the 2009 Infrastructure SIP. These are discussed further in our proposal notices, accompanying TSDs, and in Arizona's August 24, 2012 submittal, all available in the docket for today's action.

Simultaneously, EPA is disapproving Arizona's Infrastructure SIP submittals for 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): Permit program for regulation of new and modified stationary sources under part C of title I of the Act (prevention of significant deterioration (PSD)).
- Section 110(a)(2)(D)(i)(II): Provision to prohibit interference with other states' PSD measures (for 2006 24-hour $PM_{2.5}$ NAAQS).[15]
- Section 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(E)(ii) (in part): Conflict of interest.
- Section 110(a)(2)(F) (in part): Stationary source monitoring and reporting.
- Section 110(a)(2)(J) (in part): PSD.
- Section 110 (a)(2)(K): Air quality modeling and submission of monitoring data.

On June 1, 2012 ADEQ submitted the ''Proposed Supplement to the Arizona State Implementation Plan under Clean Air act Section 110(a)(1) and (2): Implementation of [1997 $PM_{2.5}$ and 8-hour ozone NAAQS and 2006 $PM_{2.5}$ NAAQS], Parallel Processing Version'' (''2012 Supplement''). The 2012 Supplement included a number of statutes and regulations that were effective under state law but had not been adopted specifically for submittal to EPA as a SIP revision under CAA section 110. On August 24, 2012, ADEQ provided EPA with evidence that the laws and regulations in the 2012 Supplement have been adopted specifically for submittal to EPA as a SIP revision with the exception of two Pima County regulations (rules 17.12.040 and 17.24.040). As explained in our notice of proposed rulemaking, our proposed approval of CAA section 110(a)(2)(F) was contingent upon receipt of fully adopted versions of the two Pima County regulations discussed above. We proposed in the alternative to disapprove the 2009 Infrastructure SIP with respect to the requirements of CAA section 110(a)(2)(F) in Pima County, if ADEQ did not submit the two Pima County regulations as SIP revisions following all required state and local procedures.[16] Consequently, in the absence of the aforementioned Pima County regulations, we are disapproving Arizona's infrastructure SIP for section 110(a)(2)(F) with respect to Pima County.

As explained in the NPRs and TSD, our disapprovals related to sections 110(a)(2)(C), (D)(i)(II), (D)(ii), (J), and (K) result from the conclusion that the Arizona SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under part C of title I of the Act. For these disapprovals, both the Maricopa County Air Quality Department and the Pima County Department of Environmental Quality currently implement the Federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants, pursuant to delegation agreements with EPA. 40

[13] EPA previously approved an earlier SIP submission from Arizona as fully satisfying the interstate transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. 72 FR 41629 (July 31, 2007).

[14] With respect to Arizona's section 110(a)(2)(D)(i)(I) interstate transport SIP submission for the 2006 24-hour $PM_{2.5}$ NAAQS, the recent opinion vacating the Transport Rule, *EME Homer City Generation* v. *EPA,* No. 11–1302 (D.C. Cir., August 21, 2012), does not alter our conclusion that the existing Arizona 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 July 30, 2012 proposal (77 FR 44551) 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 Arizona do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state.

[15] EPA previously approved an earlier SIP submission from Arizona as fully satisfying the interstate transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. 72 FR 41629 (July 31, 2007).

[16] See 77 FR 38239, 38244 (June 27, 2012).

CFR 52.144.[17] Accordingly, although the Arizona SIP remains deficient with respect to PSD requirements in both Maricopa and Pima counties, these deficiencies are adequately addressed in both areas by the Federal PSD program. ADEQ implements a SIP-approved PSD program for all regulated NSR pollutants except for PM–10 and GHGs [18] (48 FR 19878, May 3, 1983), and the Pinal County Air Quality Control District (PCAQCD) implements a SIP-approved PSD program for all regulated NSR pollutants except for GHGs [19] (61 FR 15717, April 9, 1996, as amended by 65 FR 79742, December 20, 2000). EPA understands that both ADEQ and the PCAQCD intend to submit, in the near future, PSD SIP revisions addressing the deficiencies identified in our TSD.[20]

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 CAA section 110(k)(5) (SIP Call) starts a sanctions clock. The Arizona Infrastructure SIP was not submitted to meet either of these requirements. Therefore, our partial disapproval of Arizona'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 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. For the reasons provided in our proposed rules and associated TSDs, and in our responses to comments above, EPA is partially disapproving Arizona's Infrastructure SIP Submittals based on our conclusion that it does not fully satisfy the following CAA section 110(a) requirements: (1) With respect to those areas under ADEQ and Pinal County jurisdiction, the PSD program 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) regarding regulation of nitrogen oxides (NO_X) as an ozone precursor, regulation of fine particulate matter ($PM_{2.5}$), interstate pollution abatement, and air quality models and modeling data; (2) with respect to the air quality hearing boards in Maricopa, Pima, and Pinal counties, the requirements of CAA section 110(a)(2)(E)(ii) respecting board composition requirements under CAA section 128(a)(1); and (3) with respect to Pima County, the requirements of CAA section 110(a)(2)(F) regarding stationary source monitoring and reporting. Our partial disapproval of Arizona's Infrastructure SIP Submittals based on these deficiencies triggers an obligation on EPA to promulgate a FIP under CAA section 110(c), unless Arizona submits and EPA approves SIP revisions correcting the identified deficiencies within two years of the effective date of this final rule. 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.

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

[17] See 59 FR 1730 (January 12, 1994) and ''Agreement for Delegation of Authority of the Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21) Between U.S. EPA and [Maricopa County],'' executed November 22, 1993; ''Agreement for Delegation of Authority of the Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21) Between U.S. EPA and Pima County Air Quality Control District,'' executed April 14, 1994.

[18] For PM–10 and GHGs, ADEQ implements the Federal PSD program in 40 CFR 52.21 pursuant to delegation agreements executed in 1999 and 2011, respectively. 40 CFR 52.37; ''Agreement for Delegation of Authority of the PM–10 Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21) Between EPA and Arizona DEQ,'' executed March 12, 1999; ''U.S. EPA—Arizona Department of Environmental Quality Agreement for Delegation of Authority to Issue and Modify Greenhouse Gas Prevention of Significant Deterioration Permits Subject to 40 CFR 52.21,'' executed March 30, 2011.

[19] For GHGs, Pinal County implements the Federal PSD program in 40 CFR 52.21 pursuant to a delegation agreement executed in 2011. 40 CFR 52.37; ''U.S. EPA—Pinal County Air Quality Control District Agreement for Delegation of Authority to Issue and Modify Greenhouse Gas Prevention of Significant Deterioration Permits Subject to 40 CFR 52.21,'' executed August 10, 2011.

[20] On April 10, 2012, ADEQ submitted draft PSD program regulations to EPA with a request for ''parallel processing'' under 40 CFR part 51, appendix V. We intend to act on this PSD submittal expeditiously upon receipt of an official SIP revision containing ADEQ's fully adopted PSD regulations.

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 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 taking 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. 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 December 5, 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 January 4, 2013. 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.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraphs (c)(152)(ii) and (c)(153) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(152) * * *

(i) * * *

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(*1*) ''Final Supplement to the Arizona State Implementation Plan under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 $PM_{2.5}$ National Ambient Air Quality Standards, 1997 $PM_{2.5}$ National Ambient Air Quality Standards, and 1997 8-Hour Ozone National Ambient Air Quality Standards,'' August 2012, adopted by the Arizona Department of Environmental Quality on August 24, 2012, excluding the appendices.

(*2*) Arizona Revised Statutes (West's, 2011–2012 Compact Edition):

(*i*) Title 28 (transportation), chapter 7 (certification of title and registration), article 5 (registration requirements generally), section 28–2153 (''Registration requirement; exceptions; assessment; violation; classification'');

(*ii*) Title 35 (public finances), chapter 2 (handling of public funds), article 2 (state management of public monies), section 35–313 (''Investment of trust and treasury monies; loan of securities'');

(*iii*) Title 38 (public officers and employees), chapter 1 (general provisions), article 1 (definitions), section 38–101 (''Definitions'') and article 8 (conflict of interest of officers and employees), sections 38–501 (''Application of article''), 38–502 (''Definitions''), 38–503 (''Conflict of interest; exemptions; employment prohibition''), 38–504 (''Prohibited acts''), 38–505 (''Additional income prohibited for services'') 38–506 (''Remedies''), 38–507 (''Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee''), 38–508 (''Authority of public officers and employees to act''), 38–509 (Filing of disclosures''), 38–510 (''Penalties''), and 38–511 (''Cancellation of political subdivision and state contracts; definition'');

(*iv*) Title 49 (the environment), chapter 1 (general provisions), article 1 (department of environmental quality), section 49–103 (''Department employees; legal counsel''), subsections (A)(2), (A)(4), (B)(3), and (B)(5) of section 49–104 (''Powers and duties of the department and director''), and sections 49–106 (''Statewide application of rules'') and 49–107 (''Local delegation of state authority'');

(*v*) Title 49 (the environment), chapter 3 (air quality), article 1 (general provisions), section 49–405 (''Attainment area designations''); article 2 (state air pollution control), sections 49–421 (''Definitions''), 49–422 (''Powers and duties''), 49–424 (''Duties of department''), 49–425 (''Rules; hearing''), 49–433 (''Special inspection warrant''), 49–435 (''Hearings on orders of abatement''), and 49–441 (''Suspension and revocation of conditional order''), subsections (A) and (B)(2) of section 49–455 (''Permit administration fund''), and sections 49–460 (''Violations; production of records''), 49–461 (''Violations; order of abatement''), 49–462 (''Violations; injunctive relief''), 49–463 (''Violations; civil penalties''), and 49–465 (''Air pollution emergency''); and article 3 (county air pollution control), sections 49–471 (''Definitions''), 49–473 (''Board of supervisors''), 49–474 (''County control boards''), 49–476.01 (''Monitoring''), 49–478 (''Hearing board''), 49–479 (''Rules; hearing''), 49–480.02 (''Appeals of permit actions''), 49–482 (''Appeals to hearing board''), 49–488 (''Special inspection warrant''), 49–490 (''Hearings on orders of abatement''), 49–495 (''Suspension and revocation of conditional order''), 49–502 (''Violation; classification''), 49–510 (''Violations; production of records''), 49–511 (''Violations; order of abatement''), 49–512 (''Violations; injunctive relief''), and 49–513 (''Violations; civil penalties'').

(153) The following plan was submitted on October 14, 2009, by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(*1*) ''Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 $PM_{2.5}$ National Ambient Air Quality Standards, 1997 $PM_{2.5}$ National Ambient Air Quality Standards, and 1997 8-Hour Ozone National Ambient Air Quality Standards,'' September 2009, adopted by the Arizona Department of Environmental Quality on October 14, 2009, excluding the appendices.

■ 3. Section 52.123 is amended by adding paragraphs (l), (m), and (n) to read as follows:

§ 52.123 Approval status.

* * * * *

(l) *1997 8-hour ozone NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for all portions of the Arizona SIP; for CAA element 110(a)(2)(E)(ii) for the Maricopa County, Pima County, and Pinal County portions of the Arizona SIP; and for CAA element 110(a)(2)(F) for the Pima County portion of the Arizona SIP.

(m) *1997 $PM_{2.5}$ NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for all portions of the Arizona SIP; for CAA element 110(a)(2)(E)(ii) for the Maricopa County, Pima County, and Pinal County portions of the Arizona SIP; and for CAA element 110(a)(2)(F) for the Pima County portion of the Arizona SIP.

(n) *2006 $PM_{2.5}$ NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (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 all portions of the Arizona SIP; for CAA element 110(a)(2)(E)(ii) for the Maricopa County, Pima County, and Pinal County portions of the Arizona SIP; and for CAA element 110(a)(2)(F) for the Pima County portion of the Arizona SIP.

[FR Doc. 2012–26322 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0470; FRL–9740–2]

Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality and Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Arizona Department of Environmental Quality (ADEQ) and Maricopa County Air Quality Department (MCAQD) portions of the Arizona State Implementation Plan (SIP). This action was proposed in the **Federal Register** on June 27, 2012 and concerns regulations that require monitoring and reporting of volatile organic compounds (VOC), oxides of nitrogen (NO_X), and particulate matter (PM) emissions from stationary sources. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act). We are not acting on two Pima County Department of Environmental Quality (PCDEQ) rules originally listed in our June 27, 2012 proposed action because official copies of these rules with public process documentation were not submitted for SIP approval.

DATES: These rules will be effective on December 5, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0470 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be 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 in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, (415) 947–4118, *Kay.Rynda@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Proposed Action
II. Public Comments and EPA Responses
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I. Proposed Action

EPA proposed to approve the following rules into the Arizona SIP in the **Federal Register** at 77 FR 38246, June 27, 2012.

Local agency	Rule No.	Rule title
ADEQ	18–2–313	Existing Source Emission Monitoring.
ADEQ	18–2–327	Annual Emissions Inventory Questionnaire.
MCAQD	100, Section 500	Monitoring and Records.
PCDEQ	17.12.040	Reporting Requirements.
PCDEQ	17.24.040	Reporting for Compliance Evaluations.

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation. Our proposed approval of these rules responded to a June 1, 2012 request from the State to parallel process versions of these rules. Our proposal explained that the above rules had not previously been submitted to us or had been adopted locally but had not been adopted specifically for purposes of approval into the federally enforceable SIP under CAA section 110.

On August 24, 2012, ADEQ submitted to EPA the versions of ADEQ 18–2–313 and 18–2–327 that were adopted locally on February 15, 2001 and December 7, 1995 respectively. On June 19, 2012, ADEQ submitted to EPA the version of Maricopa Rule 100, Section 500 that was adopted locally on March 15, 2006. On September 5, 2012, EPA determined that the submittal for ADEQ Rules 18–2–313 and 18–2–327, and MCAQD Rule 100, Section 500 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. We have reviewed these versions of the rules, and they are unchanged from the versions we proposed for approval on June 27, 2012.

On June 27, 2012, we also proposed approval of PCDEQ Rules 17.12.040 and 17.24.040 contingent upon EPA's receipt of fully adopted rules that satisfy state and local procedural requirements for SIP submittals. PCDEQ Rule 17.12.040 was not submitted to EPA and while PCDEQ Rule 17.24.040 was submitted on August 24, 2012, it did not include evidence of public notice as required by 40 CFR part 51 Appendix V. As such, we are not finalizing our action on these rules at this time. If these rules are subsequently submitted to EPA, we may finalize their approval in a future rulemaking contingent upon the rules being substantially identical to the rules in our June 27, 2012 proposed action, and that the adopted rules satisfy relevant requirements for SIP submittals.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving Maricopa Rule 100, Section 500, ADEQ Rule 18–2–313 and ADEQ Rule 18–2–327 into the Arizona SIP.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(152) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(152) The following plan was submitted August 24, 2012, by the Governor's designee.

(i) Incorporated by reference.

(A) Arizona Department of Environmental Quality.

(*1*) Arizona Administrative Code, title 18, chapter 2, article 3 (Permits and Permit Revisions):

(*i*) Section R18–2–313 (''Existing Source Emission Monitoring''), effective on February 15, 2001.

(*ii*) Section R18–2–327, (''Annual Emissions Inventory Questionnaire''), effective on December 7, 1995.

(B) Maricopa County Air Quality Department.

(*1*) Rule 100, Section 500, ''Monitoring and Records,'' revised on March 15, 2006.

* * * * *

[FR Doc. 2012–26684 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[FWS–HQ–MB–2012–0084; 91200–1231–9BPP]

RIN 1018–AZ16

Migratory Bird Permits; Delegating Falconry Permitting Authority to Seven States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The States of Alaska, Arizona, Kansas, Kentucky, Massachusetts, New Hampshire, and North Dakota have requested that we delegate permitting for falconry to the State, as provided under our regulations. We have reviewed regulations and supporting materials provided by these States, and have concluded that their regulations comply with the Federal regulations. We change the falconry regulations accordingly.

DATES: This rule is effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on October 8, 2008 (73 FR 59448), to revise our regulations governing falconry in the United States. These regulations are found in title 50 of the Code of Federal Regulations (CFR) at § 21.29. The regulations provide that when a State meets the requirements for operating under the regulations, falconry permitting must be delegated to the State.

The States of Alaska, Arizona, Kansas, Kentucky, Massachusetts, New Hampshire, and North Dakota have submitted revised falconry regulations and supporting materials and have requested to be allowed to operate under the revised Federal regulations. We have reviewed the regulations administered by these States and have determined that their regulations meet the requirements of 50 CFR 21.29(b). According to the regulations at § 21.29(b)(4), we must issue a rule to add a State to the list at § 21.29(b)(10) of approved States with a falconry program. Therefore, we change the Federal regulations accordingly, and a Federal permit will no longer be required to practice falconry in the States of Alaska, Arizona, Kansas,

Kentucky, Massachusetts, New Hampshire, and North Dakota beginning January 1, 2013.

Administrative Procedure

In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), we are issuing this final rule without prior opportunity for public comment. Under the regulations at 50 CFR 21.29(b)(1)(ii), the Director of the U.S. Fish and Wildlife Service must determine if a State, tribal, or territorial falconry permitting program meets Federal requirements. When the Director makes this determination, the Service is required by regulations at 50 CFR 21.29(b)(4) to publish a rule in the **Federal Register** adding the State, tribe, or territory to the list of those approved for allowing the practice of falconry. On January 1st of the calendar year following publication of the rule, the Service will terminate Federal falconry permitting in any State certified under the regulations at 50 CFR 21.29.

This is a ministerial and nondiscretionary action that must be enacted promptly to enable the subject States to assume all responsibilities of falconry permitting by January 1, 2013, the effective date of this regulatory amendment. Further, the relevant regulation at 50 CFR 21.29 governing the transfer of permitting authority to these States has already been subject to public notice and comment procedures. Therefore, in accordance with 5 U.S.C. 553(b)(3)(B), we did not publish a proposed rule in regard to this rulemaking action because, for good cause as stated above, we found prior public notice and comment procedures to be unnecessary.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (that is, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities. This rule delegates authority to States that have requested it, and those States have already changed their falconry regulations. This rule does not change falconers' costs for practicing their sport, nor does it affect businesses that provide equipment or supplies for falconry. Consequently, we certify that, because this rule will not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). It will not have a significant economic impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of $100 million or more. There are no costs to permittees or any other part of the economy associated with this regulations change.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The practice of falconry does not significantly affect costs or prices in any sector of the economy.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry significantly affects business activities.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments in a negative way. A small government agency plan is not required. The eight States affected by this rule applied for the authority to issue permits for the practice of falconry.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. The States being delegated authority to issue permits to conduct falconry have requested that authority. No significant economic impacts are expected to result from the State regulation of falconry.

Civil Justice Reform

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We examined this rule under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned OMB control number 1018–0022, which expires November 30, 2013. This regulation change does not add to the

approved information collection. Information from the collection is used to document take of raptors from the wild for use in falconry and to document transfers of raptors held for falconry between permittees. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We evaluated the environmental impacts of the changes to these regulations, and determined that this rule does not have any environmental impacts. Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, we determined that these regulatory changes do not have a significant effect on the human environment.

Under the guidance in Appendix 1 of the Department of the Interior Manual at 516 DM 2, we conclude that the regulatory changes are categorically excluded because they ''have no or minor potential environmental impact'' (516 DM 2, Appendix 1A(1)). No more comprehensive NEPA analysis of the regulations change is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian Tribes and have determined that this rule will not interfere with Tribes' ability to manage themselves or their funds or to regulate falconry on Tribal lands.

Energy Supply, Distribution, or Use

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of falconry in the United States, it is not a significant regulatory action under E.O. 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Environmental Consequences of the Action

Socioeconomic. This action will not have discernible socioeconomic impacts.

Raptor populations. This rule will not change the effects of falconry on raptor populations. We have reviewed and approved the State regulations.

Endangered and threatened species. This rule does not change protections for endangered and threatened species.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). Delegating falconry permitting authority to States with approved programs will not affect threatened or endangered species or their habitats in the United States.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we amend subpart C of part 21, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 21—MIGRATORY BIRD PERMITS

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

§ 21.9 [Amended]

■ 2. Amend § 21.29 as follows:

■ a. In paragraph (b)(10)(i), add the words ''Alaska,'' ''Arizona,'' ''Kansas,'' ''Kentucky,'' ''Massachusetts,'' ''New Hampshire,'' and ''North Dakota,'' in alphabetical order;

■ b. In paragraph (b)(10)(ii), remove the words ''Alaska,'' ''Arizona,'' ''Kansas,'' ''Kentucky,'' ''Massachusetts,'' ''New Hampshire,'' and ''North Dakota,''.

Dated: October 3, 2012.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–26941 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 77, No. 214
Monday, November 5, 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–2012–1172; Directorate Identifier 2012–CE–040–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

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 Diamond Aircraft Industries GmbH Model H–36, HK 36 R, HK 36 TS, and HK 36 TTS airplanes. 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 installation of an unsuitable self-locking nut on the bell crank of the elevator push rod that can cause failure of the elevator, resulting in loss of control. 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 20, 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 Diamond Aircraft Industries GmbH, N.A. Otto-Straβe 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *www.diamond-air.at/hk36_super_dimona+M52087573ab0.html.* 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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@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–2012–1172; Directorate Identifier 2012–CE–040–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.: 2012–0173, dated September 3, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A HK 36 R aeroplane recently experienced an in-flight elevator control failure after take-off which resulted in an uncontrolled landing. The results of the subsequent investigation revealed that the elevator control rod had disconnected from the elevator bell crank in the tail section of the fuselage, as a result of installation of a non-suitable self-locking nut.
>
> The subsequent design review of the affected elevator bell crank joint with elevator control rod identified that its current configuration has a failure potential when components such as thin self-securing nuts and bearings are aging and original clearance of the control system cannot be maintained in service. Both the designs of elevator bell crank and elevator control rod are installed in DV 20 aeroplanes.
>
> This condition, if not corrected, could lead to further cases of elevator control failure, likely resulting in reduced control of the aeroplane, consequent damage to the aeroplane and injury to the occupants.
>
> To address this concern, Diamond Aircraft Industries (DAI) published Mandatory Service Bulletin (MSB) 36–108 and MSB 20–061/1 to improve the affected elevator control joint by embodiment of new design which prevents elevator bell crank and push rod disconnection.
>
> For reasons described above, this AD requires replacement of aeroplane elevator bell cranks with improved parts and prohibits installation of any previous design elevator bell crank.

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

Relevant Service Information

Diamond Aircraft Industries GmbH has issued Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 36–108, and Diamond Aircraft Industries GmbH Work Instruction WI–MSB 36–108, both dated February 28, 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 25 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $352 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $13,050, or $522 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.

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:

Diamond Aircraft Industries GmbH: Docket No. FAA–2012–1172; Directorate Identifier 2012–CE–040–AD.

(a) Comments Due Date

We must receive comments by December 20, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Diamond Aircraft Industries GmbH models and serial number (S/N) airplanes, certificated in any category: H–36 and HK 36 R airplanes, S/Ns 36.300 through 36.414, HK 36 TS airplanes, S/Ns 36.415 and 36.416; and HK 36 TTS airplane, S/N 36.393.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(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 installation of an unsuitable self-locking nut on the bell crank of the elevator push rod that can cause failure of the elevator, resulting in loss of control. We are issuing this AD to prevent disconnection of the elevator bell crank and push rod.

(f) Actions and Compliance

Unless already done, do the following actions following Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 36–108, and Diamond Aircraft Industries GmbH Work Instruction WI–MSB 36–108, both dated February 28, 2012:

(1) Within the next 200 hours time-in-service (TIS) after the effective date of this AD, or within the next 12 months after the effective date of this AD, whichever occurs first, replace each elevator bell crank assembly with part number (P/N) 820–2730–12–00, and replace each elevator bell crank mount with P/N 820–2730–11–00.

(2) After the effective date of this AD, only install on the airplane elevator bell crank assemblies with P/N 820–2730–12–00 and elevator bell crank mounts with P/N 820–2730–11–00.

(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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@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 (EASA) AD No.: 2012–0173, dated

September 3, 2012; Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 36–108, dated February 28, 2012; and Diamond Aircraft Industries GmbH Work Instruction WI–MSB 36–108, dated February 28, 2012, for related information. For service information related to this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *www.diamond-air.at/hk36_super_dimona+M52087573ab0.html.* 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 25, 2012.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26971 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1111; Directorate Identifier 2012–NM–114–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes. This proposed AD was prompted by a report that the wiring for the 5-volt direct current (DC) system is undersized and does not have adequate circuit protection for the smaller gauge wire. This proposed AD would require installing an in-line fuse in the 5-volt DC system for each of the five instrument lighting control power supplies. We are proposing this AD to prevent failure of the wiring, which could result in smoke in the cockpit, loss of cockpit lighting, and potential damage to surrounding wiring for other cockpit equipment such as the stick shaker function or angle-of-attack indicators.

DATES: We must receive comments on this proposed AD by December 20, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Hawker Beechcraft Corporation, Department 62, P.O. Box 85, Wichita, KS 67201–0085; telephone 316–676–8238; fax 316–676–6706; email *tmdc@hawkerbeechcraft.com;* Internet *https://www.hawkerbeechcraft.com/service_support/pubs.* 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Richard Rejniak, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4128; fax (316) 946–4107; email: *richard.rejniak@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1111; Directorate Identifier 2012–NM–114–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://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

We received a report that the wiring for the 5-volt DC system is undersized and does not have adequate circuit protection for the smaller gauge wire. The wire is adequate for normal electrical loads, but it cannot safely handle the power supply's maximum current. This condition, if not corrected, could result in failure of the wiring, which could result in smoke in the cockpit, loss of cockpit lighting, and potential damage to surrounding wiring for other cockpit equipment such as the stick shaker function or angle-of-attack indicators.

Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010. The service information describes procedures for installing an in-line fuse in the 5-volt DC system for each of the five instrument lighting control power supplies.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Clarification of Service Bulletin Note

The Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010, includes a note in the Accomplishment Instructions to inform operators to contact Hawker Beechcraft ''should any difficulty be encountered''

in accomplishing the service bulletin. We have included a statement in paragraph (g) of this proposed AD to clarify that any deviation from the instructions provided in that service bulletin must be approved as an alternative method of compliance under paragraph (i) of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 421 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation	10 work-hours × $85 per hour = $850	$285	$1,135	$477,835

According to the manufacturer, some of the costs of this proposed 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

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 airworthiness directive (AD):

Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation): Docket No. FAA–2012–1111; Directorate Identifier 2012–NM–114–AD.

(a) Comments Due Date

We must receive comments by December 20, 2012.

(b) Affected ADs

None.

(c) Applicability

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

(1) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes having serial numbers RK–45, and RK–49 through RK 353 inclusive.

(2) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes (marketed as Hawker 400XP airplanes) having serial numbers RK–354 through RK–594 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2497; Electrical Power System Wiring.

(e) Unsafe Condition

This AD was prompted by a report that the wiring for the 5-volt direct current (DC) system is undersized and does not have adequate circuit protection for the smaller gauge wire. We are issuing this AD to prevent failure of the wiring, which could result in smoke in the cockpit, loss of cockpit lighting, and potential damage to surrounding wiring for other cockpit equipment such as the stick shaker function or angle-of-attack indicators.

(f) Compliance

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

(g) Fuse Replacement

Within 400 flight hours or 12 months after the effective date of this AD, whichever occurs first, install an in-line fuse assembly in the 5-volt DC output circuit on each of the five instrument lighting power supplies, in accordance with the Accomplishment Instructions of Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010. A note in the Accomplishment Instructions of Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010, instructs operators to contact Hawker Beechcraft if any difficulty is encountered in accomplishing the service bulletin. However, any deviation from the instructions provided in Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010, must be approved as an alternative method of compliance (AMOC) under paragraph (i) of this AD.

(h) Special Flight Permit

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided that the flight is conducted under visual flight rules (VFR) day conditions.

(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

(1) For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4128; fax (316) 946–4107; email: *richard.rejniak@faa.gov.*

(2) For service information identified in this AD, contact Hawker Beechcraft Corporation, Department 62, P.O. Box 85, Wichita, KS 67201–0085; telephone 316–676–8238; fax 316–676–6706; email *tmdc@hawkerbeechcraft.com*; Internet *https://www.hawkerbeechcraft.com/service_support/pubs.* 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 24, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26958 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1155; Directorate Identifier 2012–NM–115–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by reports of chafing found on the main landing gear (MLG) yoke. The chafing was attributed to contact between the nacelle fire detection wires and the MLG yoke. This proposed AD would require inspections of the nacelle fire detection wires and the MLG yoke for damage; replacing nacelle fire detection wires, if necessary; repairing the MLG yoke, if necessary; and installing new brackets and associated hardware to secure the fire detection wires. We are proposing this AD to prevent chafing between the nacelle fire detection wires and the MLG yoke. Chafing could lead to cracking and subsequent failure of the MLG yoke, which could adversely affect the safe landing of the airplane. In addition, chafing of the nacelle fire detection wires could cause them to fail and prevent the detection of a fire in the nacelle assembly.

DATES: We must receive comments on this proposed AD by December 20, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7301; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1155; Directorate Identifier 2012–NM–115–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://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–15, dated April 30, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been two (2) in-service reports of chafing found on the main landing gear (MLG) yoke. The chafing was attributed to contact between the nacelle fire detection wire and the MLG yoke. This chafing may lead to cracking and subsequent failure of the MLG yoke.
>
> Failure of the MLG yoke could adversely affect the safe landing of the aeroplane. In addition, failure of the fire detection wire could prevent the detection of a fire in the nacelle assembly.
>
> This [Canadian] Airworthiness Directive (AD) mandates the [detailed] inspection of the nacelle fire detection wires and [detailed inspection of the] MLG yoke for damage [chafing, nicks, cracking] and the installation of new brackets to secure the fire detection wire to prevent chafing against the MLG yoke [and corrective actions if necessary].

Corrective actions include replacing damaged wires with new wires and repairing the MLG yoke. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 84–26–11, Revision A, dated January 25, 2012. The actions described in this service bulletin are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

Although the MCAI specifies to contact the manufacturer for instructions to repair certain conditions, this proposed AD would require repairing those conditions using a method approved by either the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or TCCA (or its delegated agent).

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 80 products of U.S. registry. We also estimate that it would take about 3 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 $332 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $46,960, or $587 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 airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2012–1155; Directorate Identifier 2012–NM–115–AD.

(a) Comments Due Date

We must receive comments by December 20, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes; certificated in any category; serial numbers 4001 through 4382 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports of chafing found on the main landing gear (MLG) yoke. We are issuing this AD to prevent chafing between the nacelle fire detection wires and the MLG yoke. Chafing could lead to cracking and subsequent failure of the MLG yoke, which could adversely affect the safe landing of the airplane. In addition, chafing of the nacelle fire detection wires could cause them to fail and prevent the detection of a fire in the nacelle assembly.

(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) Inspections and Installation

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012.

(1) Do a detailed inspection of the left and right nacelle fire detection wires for damage (i.e., chafing), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012. If damage is found on any nacelle fire detection wire: Before further flight, remove and replace the damaged wire with a new wire, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012.

(2) Do a detailed inspection of the MLG yoke for damage (e.g., chafing, nicks, cracking).

(i) If any damage is found within the limitations specified in Figure 8 of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012: Before further flight, repair the MLG yoke, in accordance with Figure 9, steps 1 through 10, of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012.

(ii) If any damage exceeds the limitations specified in Figure 8 of Bombardier Service Bulletin 84–26–11, Revision A, dated January

25, 2012: Before further flight, repair the MLG yoke using a method approved by either the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (or its delegated agent). The approved repair must specifically reference this AD.

(3) Install new brackets and associated hardware, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g)(1), (g)(2), and (g)(3) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–26–11, dated December 19, 2011.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

(1) Refer to MCAI Canadian Airworthiness Directive CF–2012–15, dated April 30, 2012; and Bombardier Service Bulletin 84–26–11, Revision A, dated January 25, 2012; for related information.

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

Issued in Renton, Washington, on October 24, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26940 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1157; Directorate Identifier 2012–NM–061–AD]

RIN 2120–AA64

Airworthiness Directives; BAE SYSTEMS (Operations) Limited Model 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 BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. This proposed AD was prompted by a report that certain ceramic terminal blocks, through which the wiring for the engine fire extinguishers, fire detection circuits, and engine and intake anti-ice system are routed, have been found to have moisture ingress which can degrade the insulation resistance of the ceramic terminal blocks. This proposed AD would require a one-time insulation resistance test of ceramic terminal blocks, and if necessary, replacement of the blocks. We are proposing this AD to prevent latent failure of the number 2 fire bottle, which, in the event of an engine fire, could result in failure of the fire bottle to discharge when activated and possibly preventing the flightcrew from extinguishing an engine fire.

DATES: We must receive comments on this proposed AD by December 20, 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 BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com*; Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1175; 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–2012–1157; Directorate Identifier 2012–NM–061–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0040, dated March 13, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Moisture ingress has been discovered on certain ceramic terminal blocks, mounted on the engine cowlings, through which the wiring for the engine fire extinguishers, fire detection circuits and engine and intake anti ice system are routed. The affected terminal blocks were introduced through BAE Systems SB 71–077–01693A (modification HCM01693A) during the period 2002–2004, as this modification was mandated by CAA UK AD 005–10–2001 [which corresponds with FAA AD 2003–03–10, Amendment 39–13034 (68 FR 4902, January 31, 2003)]. Moisture ingress has a detrimental effect on the insulation resistance of the ceramic terminal block with the resultant possibility of interconnections between all terminals. Most of the possible failure conditions in the terminal block should result in an evident warning or other indication. However, the functional loss of the number 2 fire bottle would be a dormant failure.

This condition, if not corrected, could result in the failure of a fire bottle to discharge when activated, possibly preventing the flight crew in extinguishing an engine fire.

For the reasons described above, this AD requires a one-time inspection of the ceramic terminal blocks to determine the insulation resistance and, depending on findings, replacement of terminal blocks, and the reporting of the results to the BAE Systems. These will be used to establish a suitable repetitive inspection interval, which is expected to be introduced through the Maintenance Review Board (MRB) process.

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

Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin 24–143, Revision 1, dated October 2, 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.

Reporting Requirement

Although the MCAI or service information tells you to submit information to BAE Systems (Operations) Limited, paragraph (i) of this AD specifies that such submittal is not required.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 2 products of U.S. registry. We also estimate that it would take about 10 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,700, or $850 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $949, for a cost of $1,034 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited: Docket No. FAA–2012–1157; Directorate Identifier 2012–NM–061–AD.

(a) Comments Due Date

We must receive comments by December 20, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 24: Electrical Power.

(e) Reason

This AD was prompted by a report that certain ceramic terminal blocks, through which the wiring for the engine fire extinguishers, fire detection circuits, and engine and intake anti-ice system are routed, have been found to have moisture ingress

which can degrade the insulation resistance of the ceramic terminal blocks. We are issuing this AD to prevent latent failure of the number 2 fire bottle, which, in the event of an engine fire, could result in failure of the fire bottle to discharge when activated and possibly preventing the flightcrew from extinguishing an engine fire.

(f) Compliance

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

(g) Inspection

Within 4,000 flight cycles or 18 months, whichever occurs first after the effective date of this AD, do an insulation resistance test on each terminal block, in accordance with paragraphs 2.C., 2.D., 2.E., and 2.F. of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin 24–143, Revision 1, dated October 2, 2012.

(h) Replacement

If, during the test required by paragraph (g) of this AD, any terminal block is found to have a value of less than 50 megohms, before next flight, replace it with a new or serviceable terminal block, in accordance with paragraph 2.G. of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin 24–143, Revision 1, dated October 2, 2012.

(i) Inspection Report Difference

Where BAE Systems (Operations) Limited Inspection Service Bulletin 24–143, Revision 1, dated October 2, 2012, specifies to complete the test result sheets in Appendices 1, 2, 3, and 4 and the inspection report in Appendix 6, and send the information to BAE Systems (Operations) Limited, this AD does not require that action.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using BAE Systems (Operations) Limited Inspection Service Bulletin 24–143, dated September 26, 2011, which is not incorporated by reference in this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(l) Related Information

(1) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0040, dated March 13, 2012; and Bae Systems (Operations) Limited Inspection Service Bulletin 24–143, Revision 1, dated October 2, 2012; for related information.

(2) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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 26, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26897 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1173; Directorate Identifier 2012–CE–038–AD]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam srl Airplanes

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 Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes. 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 multiple cracks found on the outboard aileron hinge support of a P2006T airplane during an inspection. 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 20, 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 Costruzioni Aeronautiche TECNAM Airworthiness Office, Via Maiorise—81043 Capua (CE) Italy; telephone: +39 0823 620134; fax: +39 0823 622899; email: *m.oliva@tecnam.com* or *g.paduano@tecnam.com;* Internet: *www.tecnam.com/it-IT/documenti/service-bulletins.aspx.* 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: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901

Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@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–2012–1173; Directorate Identifier 2012–CE–038–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.: 2012–0146, dated August 6, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During a 100 hour inspection of a P2006T aeroplane, multiple cracks were detected on the outboard aileron hinge support, part number (P/N) 26–1–1082–1/3.
>
> This condition, if not detected and corrected, could jeopardize the wing structural integrity.
>
> For the reason described above, this AD requires to inspect for crack detection all aileron hinge supports and to accomplish the applicable corrective actions.

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

Relevant Service Information

Costruzioni Aeronautiche Tecnam srl has issued Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 102–CS–Rev2, dated July 3, 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 7 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 $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $297.50, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $460, for a cost of $715 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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:

Costruzioni Aeronautiche Tecnam srl: Docket No. FAA–2012–1173; Directorate Identifier 2012–CE–038–AD.

(a) Comments Due Date

We must receive comments by December 20, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam srl P2006T airplanes, serial numbers 001/US through 9999/US, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 57, Wings.

(e) Reason

This AD was prompted by multiple cracks found on the outboard aileron hinge support of a P2006T airplane during an inspection. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, do the following actions following Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 102–CS–Rev2, dated July 3, 2012:

(1) At the compliance times below, inspect all aileron hinge supports part numbers (P/N) 26–1–1082–1/3, P/N 26–1–1081–1/3, P/N 26–1–1081–2/4, and P/N 26–1–1082–2/4 for cracks:

(i) *For airplanes with 600 or more hours time-in-service (TIS) as of the effective date of this AD:* Within 30 days after the effective date of this AD or within the next 25 hours time-in-service (TIS) after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 100 hours TIS or 12 months, whichever occurs first,

(ii) *For airplanes with less than 600 hours TIS as of the effective date of this AD:* Within 30 days after accumulating 600 hours TIS or within 25 hours TIS after accumulating 600 hours TIS, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS or 12 months, whichever occurs first.

(2) If a crack is found during any inspection required by paragraph (f)(1) of this AD, before further flight, replace the applicable hinge support(s) with an airworthy part.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD provides credit for the actions required in this AD if already done before the effective date of this AD following Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 102–CS–Rev1, dated June 29, 2012; or Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 102–CS–Rev2, dated July 3, 2012.

(h) 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: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@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.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012–0146, dated August 6, 2012; and Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 102–CS–Rev2, dated July 3, 2012, for related information. For service information related to this AD, contact Costruzioni Aeronautiche TECNAM Airworthiness Office, Via Maiorise—81043 Capua (CE) Italy; telephone: +39 0823 620134; fax: +39 0823 622899; email: *m.oliva@tecnam.com* or *g.paduano@tecnam.com;* Internet: *www.tecnam.com/it-IT/documenti/service-bulletins.aspx.* 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 25, 2012.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–26968 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AO31

Eligibility of Disabled Veterans and Members of the Armed Forces With Severe Burn Injuries for Financial Assistance in the Purchase of an Automobile or Other Conveyance and Adaptive Equipment

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its adjudication regulation regarding a certificate of eligibility for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment. The amendment is necessary to incorporate statutory changes made by the Veterans' Benefits Act of 2010.

DATES: Written comments must be received on or before January 4, 2013.

Applicability Date: VA would apply this rule to all claims for benefits received on or after October 1, 2011.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to RIN 2900–AO31 ''Eligibility of Disabled Veterans and Members of the Armed Forces with Severe Burn Injuries for Financial Assistance in the Purchase of an Automobile or Other Conveyance and Adaptive Equipment.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy Copeland, Consultant, Regulations Staff (211D), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461–9487. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 803 of Public Law 111–275, the Veterans' Benefits Act of 2010, amended subsection 3901(1)(A) of title 38, United States Code (U.S.C.), by reformatting the statute and adding ''severe burn injury (as determined pursuant to regulations prescribed by the Secretary)'' as one of the disabilities that VA will consider when making a determination of eligibility for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment. Pursuant to the authority granted to the Secretary in 38 U.S.C. 501(a) and 3901(1)(A)(iv), as added by the Veterans' Benefits Act of 2010, VA proposes to amend 38 CFR 3.808 to define the term ''severe burn injury.''

The purpose of 38 U.S.C. 3901 and 3902 is to provide an automotive allowance and adaptive equipment to veterans having certain severe disabilities that may impair their ability to operate a standard motor vehicle. Prior to the enactment of the Veterans' Benefits Act of 2010, the automobile allowance was authorized only for the loss or permanent loss of use of one or both hands or feet or for permanent impairment of vision of both eyes. In discussing the proposed extension of this benefit to veterans with severe burn

injuries, the Chairman of the Senate Committee on Veterans' Affairs explained that, ''[d]ue to the severe damage done to their skin, individuals with these disabilities experience difficulty operating a standard automobile not equipped to accommodate their disabilities'' and that the proposed legislation ''would help them obtain vehicles with special adaptations for assistance in and out of the vehicle, seat comfort, and climate control.'' 156 Cong. Rec. S7656 (daily ed. Sept. 28, 2010) (statement of Chairman Akaka).

For purposes of determining eligibility of disabled veterans and members of the Armed Forces for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment, VA proposes to define severe burn injury as a disability resulting from a severe burn that is a deep partial thickness or full-thickness burn resulting in scar formation that causes contractures and limits motion of one or more extremities or the trunk and precludes effective operation of an automobile.

Skin that has experienced deep partial and full-thickness burns is never restored to normal. In a deep partial thickness burn, there is complete destruction of the epidermis and severe damage to the dermal layer. Healing may occur with hypertrophic scars and keloid formation. In a full-thickness burn, there is complete destruction of the epidermis and dermis, and there may be some damage to the underlying subcutaneous fat layer. Scar tissue from these types of burns is thin, fragile, and prone to chronic ulceration. Scars resulting from these burns may cause disfigurement. The most frequent cause of disability is burn scar contracture. This residual prohibits movement of a joint in its normal range of motion and influences not only the underlying joint but also the adjacent joints. Burn scar contracture is not only limited to the extremities but also can occur as a result of burns to the trunk, resulting in postural impairments.

Although full-thickness burns are generally more disabling than deep partial thickness burns, depending upon location, a deep partial thickness burn may result in more scarring with contracture limiting motion and, therefore, be more disabling than a full-thickness burn. For example, a deep partial thickness burn resulting in limited motion may involve an important joint such as a thumb, hand, or elbow which are more crucial in operating an automobile than other joints. Additionally, some individuals tend to be significant scar formers based on race and ethnicity. For example, one individual with a deep partial thickness burn may be more significantly disabled due to the exuberance of scar formation with contractures than another individual with a well treated full-thickness burn. As such, the category of burn injury is not always the predictor of disability. Rather, disability must be based on the eventual limitation of motion of which joint is involved. For all these reasons, VA proposes to consider both ''deep partial thickness burns'' and ''full-thickness burns'' as severe burn injuries.

We believe that VA's definition of severe burn injury for purposes of determining eligibility of disabled veterans and members of the Armed Forces for financial assistance concerning the purchase of an automobile or other conveyance and adaptive equipment certification is consistent with congressional intent. This definition generally reflects the purpose found at 38 U.S.C. 3901 and 3902 to authorize the automobile allowance or other conveyance and adaptive equipment for severely disabling conditions affecting the veteran's ability or military member's ability to operate a standard automobile in a safe and effective manner. As such, VA believes that it is fair and reasonable to define a severe burn injury as a deep partial thickness or full-thickness burn resulting in scar formation that causes contractures and limits motion of one or more extremities or the trunk and precludes effective operation of an automobile.

Therefore, in 38 CFR 3.808, VA would redesignate current paragraph (b)(4) as (b)(5) and add a new paragraph (b)(4) that adds ''severe burn injury,'' and the criteria noted above, as one of the conditions that determines entitlement for a certificate of eligibility for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment. Additionally, VA would replace the title ''Automobiles or other conveyances; certification'' with ''Automobiles or other conveyances and adaptive equipment; certification'' to mirror the statutory provisions of 38 U.S.C. 3901 and 3902. Finally, VA would revise the authority citation for paragraph (b) to include 38 U.S.C. 3901. Since the statutory amendment authorizing this regulatory change became effective on October 1, 2011, VA would apply this rule to all claims for benefits received on or after October 1, 2011.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for the programs affected by this document are 64.013, Veterans Prosthetic Appliances; 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; and 64.109, Veterans Compensation for Service-Connected Disability.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on October 24, 2012,for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: October 25, 2012.

William F. Russo,

Deputy Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Amend § 3.808 as follows:

a. Revise the section heading.

b. Redesignate paragraph (b)(4) as (b)(5).

c. Add a new paragraph (b)(4).

d. Revise the authority citation at the end of paragraph (b).

The addition and revisions read as follows:

§ 3.808 Automobiles or other conveyances and adaptive equipment; certification.

* * * * *

(b) * * *

(4) A severe burn injury. For the purposes of this section, a severe burn injury is defined as follows:

(i) Deep partial thickness or full-thickness burns resulting in scar formation that causes contractures and limits motion of one or more extremities or the trunk and precludes effective operation of an automobile.

(5) For adaptive equipment eligibility only, ankylosis of one or both knees or one or both hips.

(Authority: 38 U.S.C. 3901, 3902)

* * * * *

[FR Doc. 2012–26607 Filed 11–2–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–RO1–OAR–2009–0451; A–1–FRL–9748–1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve State Implementation Plan revisions submitted by the State of New Hampshire. These SIP revisions consist of a demonstration that New Hampshire meets the requirements of reasonably available control technology for oxides of nitrogen and volatile organic compounds set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard, revisions to existing rules controlling these pollutants, and source-specific orders for fifteen individual sources. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before December 5, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. RO1–OAR–2009–0451 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* ''EPA–RO1–OAR–2009–0451,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

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

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 19, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2012–26756 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0552; FRL–9748–9]

Approval and Promulgation of Implementation Plans; Arizona; Motor Vehicle Inspection and Maintenance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve three revisions to the Arizona State Implementation Plan submitted by the Arizona Department of Environmental Quality. Two of these revisions relate to an amendment to Arizona's Basic and Enhanced Vehicle Emissions Inspection Programs that would exempt motorcycles in the Phoenix metropolitan area from emissions testing requirements. The third revision would expand the geographic area in which various air quality control measures, including the vehicle emissions inspection program but also including other control measures, apply in the Phoenix metropolitan area. EPA is proposing approval of these SIP revisions because we have found that they meet all applicable requirements and would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards. EPA is proposing this action under the Clean Air Act obligation to take action on State submittals of revisions to state implementation plans.

DATES: Written comments must be received on or before December 5, 2012.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R09–OAR–2011–0552, by one of the following methods:

1. *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email:* Jeffrey Buss at *buss.jeffrey@epa.gov.*

3. *Fax:* Jeffrey Buss, Air Planning Office (AIR–2), at fax number 415–947–3579.

4. *Mail:* Jeffrey Buss, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105.

5. *Hand or Courier Delivery:* Jeffrey Buss, Air Planning Section (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105. Such deliveries are only accepted during the Regional Office's normal hours of operation. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–OAR–2011–0552. 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 the disclosure of which is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected from disclosure. The *www.regulations.gov* Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (415) 947–4152, email: *buss.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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I. Introduction and Background

In May 1995, EPA approved Arizona's Basic and Enhanced Vehicle Emissions Inspection/Maintenance (VEI) Programs as a revision to the Arizona State Implementation Plan (SIP) under the Clean Air Act, as amended in 1990 (CAA or ''Act'') and EPA's motor vehicle inspection and maintenance rule (''EPA's I/M rule'' or ''federal I/M rule'') as amended. See 60 FR 22518 (May 8, 1995). A ''basic'' I/M program was required in the Phoenix metropolitan area (referred to as ''Area A'') due to the area's designation as a ''moderate'' nonattainment area for the carbon monoxide (CO) and the 1-hour ozone national ambient air quality standards (NAAQS or ''standard'').[1] The VEI program was designed to reduce emissions of CO, volatile organic compounds (VOC) and oxides of nitrogen (NO_X).[2] At that time, although

[1] The Phoenix metropolitan area is also a nonattainment area for respirable particulate matter (PM_{10}); however, the VEI program plays a very minor role in the control strategy for this pollutant. There is no CAA requirement for I/M programs in PM_{10} nonattainment areas and no PM_{10} reduction credited from EPA's emission models, MOBILE 6.2 or MOVES.

[2] VOC and NO_X are precursors to ozone formation in the atmosphere under the influence of sunlight and meteorology.

it was not required to have an ''enhanced'' I/M program, Arizona was implementing most elements of an enhanced program in Phoenix. Arizona's program, as implemented in Phoenix, however, was not approved as an enhanced program, because the program did not satisfy all the requirements in EPA's I/M rule for enhanced programs. An enhanced I/M program became a requirement for the Phoenix area when the area was reclassified from ''moderate'' nonattainment to ''serious'' nonattainment for the CO NAAQS effective August 28, 1996 (61 FR 39343, July 29, 1996), and when the area was reclassified from ''moderate'' nonattainment to ''serious'' nonattainment for the 1-hour ozone NAAQS effective February 13, 1998 (63 FR 7290 February 13, 1998).

Since the Arizona VEI programs were originally approved in May 1995, EPA has amended the federal I/M rule several times to provide states with more flexibility in designing their programs but also to require testing of the on-board diagnostic (OBD) system. Since that time, Arizona has also made a number of changes to its enhanced and basic VEI programs.

In January 2003, we approved changes to the Arizona VEI programs submitted to us on July 6, 2001 and April 10, 2002, including the incorporation of OBD testing, an exemption for the first five model year vehicles from the programs on a rolling basis, replacement of the previously-approved remote sensing program in Phoenix with an on-road testing study, and legislative changes to the waiver provisions. See 68 FR 2912 (January 22, 2003). In our January 2003 final rule, we also approved the VEI program in the Phoenix area as meeting the enhanced I/M program performance standard.

In our January 2003 final rule, we also approved an expansion of the geographic area in which the VEI program in the Phoenix area applies, an area referred to as ''Area A.'' Area A, as approved in 2003, includes all of the metropolitan Phoenix carbon monoxide and 1-hour ozone nonattainment areas plus additional areas in Maricopa County to the north, east, and west, as well as a small portion of Yavapai County and the western portions of Pinal County. ''Area A'' is also used by the State of Arizona to identify the applicable area for implementation of a number of other air pollution control measures, including but not limited to the EPA-approved cleaner burning gasoline (CBG) and stage II vapor recovery programs. See, e.g., 69 FR 10161 (March 4, 2004) (approval of CBG program), and 77 FR 35279 (June 13, 2012) (approval of revised Stage II vapor recovery program). ''Area A'' is defined at Arizona Revised Statutes (ARS) section 49–541, subsection (1).

In April 2004, we published a final rule governing the transition from the 1-hour ozone NAAQS to the 8-hour ozone standard that we promulgated in 1997. See 69 FR 23951 (April 30, 2004).[3] Under our April 2004 final rule, we established certain ''anti-backsliding requirements'' that would continue to apply to 8-hour ozone nonattainment areas based on an area's designation and classification for the 1-hour ozone standard at the time of designation for the 1997 8-hour ozone standard, even after revocation of the 1-hour ozone standard. The I/M program requirement was included in the list of such ''anti-backsliding'' requirements. See 40 CFR 51.900(f)(2) and 51.905(a)(1)(i).

In April 2004, we published a second final rule related to ozone, and in this other rule, we designated the Phoenix-Mesa area as a nonattainment area for the 1997 8-hour ozone standard, 69 FR 23858, at 23878 (April 30, 2004), and, later, classified the area as ''Subpart 2/Marginal'' for that standard, 77 FR 28424 (May 14, 2012). Thus, the requirement to continue to implement an enhanced I/M program continues to apply in the Phoenix metropolitan area based the area's designation and classification for the 1-hour ozone standard notwithstanding revocation of the 1-hour ozone standard in June 2005.

In 2005, we approved maintenance plans and redesignation requests for both the carbon monoxide and 1-hour ozone standards in the Phoenix area. See 70 FR 11553 (March 9, 2005) (carbon monoxide redesignation request and maintenance plan approval), and 70 FR 34362 (June 14, 2005) (1-hour ozone redesignation request and maintenance plan approval). Both approved maintenance plans include ''Expansion of Area A Boundaries'' as a contingency measure.[4] In these plans, ''Expansion of Area A Boundaries'' refers to an amendment to the definition of Area A in ARS 49–541 that was made by the Arizona Legislature in 2001 to expand the boundaries of this area beyond the boundaries approved by EPA in 2003 to add portions of Maricopa County west of Goodyear and Peoria and a small piece of land on the north side of Lake Pleasant in Yavapai County. In light of the fact that the Legislature had already acted, the two maintenance plans noted that ''Expansion of Area A'' was an example of ''early implementation'' of a contingency measure.

In March 2007, we approved changes to the Arizona VEI programs submitted to us on December 23, 2005 and October 3, 2006, including an exemption for collectible vehicles from VEI testing in the Phoenix metropolitan area, and collectible vehicles and motorcycles from VEI testing in the Tucson metropolitan area. See 72 FR 15046 (March 30, 2007). In our March 2007 rule, we also approved an updated performance evaluation standard for the VEI program in the Phoenix area; and new contingency measures.

On June 13, 2007, ADEQ submitted the *Eight-Hour Ozone Plan for the Maricopa Nonattainment Area (June 2007)* (''Phoenix-Mesa Eight-Hour Ozone Attainment Plan'') to demonstrate attainment of the 1997 8-hour ozone standard in the Phoenix-Mesa nonattainment area by June 2009. Similar to the carbon monoxide and 1-hour ozone maintenance plans, the Phoenix-Mesa Eight-Hour Ozone Attainment Plan does not take emissions reduction credit for ''Expansion of Area A Boundaries'' to demonstrate attainment or maintenance but lists ''Expansion of Area A Boundaries'' as a contingency measure. We approved the plan at 77 FR 35285 (June 13, 2012). As a contingency measure, ADEQ estimated that ''Expansion of Area A Boundaries'' would reduce VOC emissions by approximately 1.3 metric tons per day by increasing the number of vehicles subject to the VEI program.[5]

In March 2009, ADEQ submitted the *MAG Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa Nonattainment Area (February 2009)* (''Phoenix-Mesa Eight-Hour Ozone Maintenance Plan'') to demonstrate the criteria for redesignation to ''attainment'' have been satisfied and to demonstrate maintenance of the 1997 8-hour ozone standard through year 2025. Unlike the previous plans, the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan includes ''Expansion of Area A Boundaries'' as a measure for which credit is taken to

[3] In 1997, EPA promulgated an 8-hour ozone standard [0.08 parts per million (ppm)] to replace the 1-hour ozone standard. The 1-hour ozone standard was revoked effective June 15, 2005.

[4] See page ES–6 of the Maricopa Association of Government's (MAG's) *Carbon Monoxide Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area (May 2003)* and page ES–9 of MAG's *One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area (March 2004).*

[5] See pages V–20 and V–21 of exhibit 2 (''Technical Support Document for Ozone Modeling in Support of the Eight-Hour Ozone Plan for the Maricopa Nonattainment Area'') of appendix A to the Phoenix-Mesa Eight-Hour Ozone Attainment Plan.

demonstrate maintenance of the 1997 8-hour ozone standard through 2025.[6] The maintenance demonstration in the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan specifically excludes motorcycles from the calculated emissions reductions from the VEI.[7]

We have not yet taken action on the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan and do not propose action related to that plan herein. However, today's proposed approval of the expansion of Area A boundaries, as codified in amended ARS 49–541(1) and submitted on May 25, 2012 in connection with the 2012 Phoenix Area PM–10 Five Percent Plan (discussed in the following section of this document), provides support for the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan given its reliance on the expansion of Area A boundaries in maintaining the 1997 8-hour ozone standard once the area is redesignated. EPA will take action on the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan in one or more future rulemakings.

Lastly, in March 2008, EPA revised the 8-hour ozone standard to 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). More recently, we designated the Phoenix-Mesa area as a ''Marginal'' nonattainment area for the 2008 ozone standard, effective July 20, 2012. See 77 FR 30088 (May 21, 2012). Such ''Marginal'' nonattainment areas must attain the standard as expeditiously as practicable but not later than July 20, 2015 (i.e., 3 years from July 20, 2012, the effective date of the nonattainment designation).

II. Summary of Arizona's SIP Submittals

The Arizona Department of Environmental Quality (ADEQ) submitted the most recent statutory changes to its Basic and Enhanced VEI Programs as a revision to the Arizona State Implementation Plan (SIP) on November 6, 2009 (''2009 VEI SIP Revision''). The 2009 VEI SIP Revision submittal includes the SIP revision itself, divided into a non-regulatory portion, ''Final Arizona State Implementation Plan Revision, Exemption of Motorcycles from Vehicle Emissions Inspection/Maintenance Requirements in Area A'' (October 2009), and a regulatory portion, House Bill (HB) 2280, as well as supporting materials related to legal authority, adoption, public process and technical analysis.

HB 2280 amends the Arizona Revised Statutes (ARS) Section 49–542 by exempting motorcycles from emissions testing in Area A (i.e., the Phoenix area). Specifically, the amendments to ARS 49–542 are found in paragraphs or subparagraphs (F)(2)(e), (F)(3), (J)(2)(l), and (K) of that section of code. The changes to ARS Section 49–542 are self-implementing, which means that they become effective upon EPA approval as a revision to the Arizona SIP. Section 2 of HB 2280 provides that the exemption becomes effective upon EPA approval of a SIP revision on or before July 10, 2010.

In consultation with EPA concerning the VEI SIP Revision, ADEQ prepared additional information regarding the impacts of the motorcycle exemption on attainment of the 2008 8-hour ozone NAAQS and the 1987 PM_{10} NAAQS. On January 11, 2011, ADEQ adopted and submitted the additional information and a replacement measure in a supplemental SIP revision, entitled, ''Addendum to the Arizona State Implementation Plan Revision, Exemption of Motorcycles from Vehicle Emissions Inspections and Maintenance Program Requirements in Area A, October 2009'' (December 2010) (''2011 VEI SIP Addendum''). In the cover letter to the 2011 VEI SIP Addendum, ADEQ indicated that, through House Bill 2033 adopted in April 2010, the Arizona Legislature had extended the date authorizing the motorcycle exemption to July 2012.[8] Also, as part of the submittal of the 2011 VEI SIP Addendum, ADEQ documented the public participation process that was conducted by ADEQ prior to adoption and submittal of the Addendum to EPA.

On May 25, 2012, ADEQ submitted *the MAG 2012 Five Percent Plan for PM–10 for the Maricopa County Nonattainment Area (May 2012)* (''2012 Phoenix Area PM–10 Five Percent Plan''). The 2012 PM–10 Phoenix Area Five Percent Plan was submitted to provide for attainment of the PM_{10} standard and an annual reduction in PM_{10} emissions within the area of not less than five percent until attainment of the standard. Among the statutes submitted as part of the 2012 Phoenix Area PM–10 Five Percent Plan for approval as part of the Arizona SIP is ARS 49–541(1), which establishes the boundaries of Area A as expanded by the Arizona Legislature in 2001.[9] As noted, several previous plans for the Phoenix area had included ''Expansion of Area A Boundaries'' as a contingency measure, but the more recent submitted plans, including the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan and the 2012 Phoenix Area PM–10 Five Percent Plan, rely on it as part of the long-term control or maintenance strategy. With respect to ADEQ's May 25, 2012 SIP revision submittal of the 2012 Phoenix Area PM–10 Five Percent Plan, EPA is proposing action only on the amended statutory provision that expands the boundaries of Area A [i.e., amended ARS 49–541(1)]. EPA will take action on the rest of the 2012 Phoenix Area PM–10 Five Percent Plan in one or more future rulemakings.

III. EPA Review of the SIP Revisions

A. CAA Procedural Provisions

CAA section 110(l) requires revisions to a SIP to be adopted by the state after reasonable notice and public hearing. EPA has promulgated specific requirements for SIP revisions in 40 CFR part 51, subpart F.

On September 14 and 15, 2009, ADEQ published notices in newspapers of general circulation in the Phoenix area of public hearings on proposed revisions to the Arizona SIP to exempt motorcycles in Phoenix from emissions testing requirements under the Arizona VEI programs (i.e., a draft VEI SIP Revision). Public hearings were held on October 15, 2009 in Phoenix. On November 6, 2009, in accordance with Arizona law, ADEQ adopted these exemptions as set forth in ''Final Arizona State Implementation Plan Revision, Exemption of Motorcycles from Vehicle Emissions Inspection/Maintenance Requirements in Area A'' (October 2009) as a revision to the Arizona SIP and submitted the revision to EPA for approval.

ADEQ followed a similar process in adopting and submitting the 2011 VEI SIP Addendum. ADEQ held a public hearing on December 15, 2010 in Phoenix on a draft VEI SIP Addendum and adopted the VEI SIP Addendum on January 11, 2011 in accordance with Arizona law prior to submittal to EPA as a revision to the Arizona SIP.

ADEQ also provided for public comment and hearing of the 2012 Phoenix Area PM–10 Five Percent Plan. Specifically, ADEQ published notice of the start of a 30-day comment period on March 12, 2012. In this notice, ADEQ also provided notice of a public hearing that was, as scheduled, held on April 12, 2012. See exhibit 1 (''Public Hearing Process Documentation'') to appendix E to the 2012 Phoenix Area PM–10 Five Percent Plan.

[6] See page ES–4 of the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan.

[7] See page 3–12 of the Phoenix-Mesa Eight-Hour Ozone Maintenance Plan.

[8] Through House Bill 2073 in 2012, the Arizona Legislature has further extended the date authorizing the motorcycle exemption to July 2014.

[9] See exhibit 1 in Appendix C to the 2012 PM–10 Five Percent Plan.

ADEQ's 2009 VEI SIP Revision, 2011 VEI SIP Addendum, and 2012 Phoenix Area PM–10 Five Percent Plan submittal packages include evidence of public notice and hearing, ADEQ responses to public comments, and ADEQ adoption as described above, and, based on review of these materials, we find that ADEQ has met the procedural requirements of CAA section 110(l) and 40 CFR part 51, subpart F.

B. I/M Program Requirements

As noted in Section I, Introduction and Background, herein, Arizona's VEI programs were most recently approved as meeting federal I/M program requirements on March 30, 2007 (72 FR 15046). Although the Phoenix and Tucson areas have been redesignated to ''attainment'' for the CO NAAQS, the VEI programs continue to be relied upon to maintain the CO standard in those areas. Moreover, ''enhanced'' I/M remains an ''applicable requirement'' for the Phoenix area under our final rule implementing the 8-hour ozone NAAQS (see 40 CFR 51.900(f) and 51.905(a)(1)) based on the designation of that area as a nonattainment area for the 8-hour ozone NAAQS (and designation as nonattainment for the 1-hour ozone NAAQS at the time of designation for the 8-hour standard). Thus, to be approved, the VEI programs, as amended and evaluated herein, must continue to meet the relevant enforceability requirements for I/M programs in subpart S of 40 CFR part 51 and, for the Phoenix area with respect to ozone, the enhanced performance standard in 40 CFR 51.351. In the following paragraphs, we review ADEQ's 2009 VEI SIP Revision and 2011 VEI SIP Addendum to determine whether the amended VEI programs continue to meet federal I/M program requirements.

The aspects of I/M affected by the submitted revisions to the VEI programs and the expansion of Area A boundaries include geographic coverage, vehicle coverage and exemptions, compliance enforcement, and the performance standard evaluation.

1. Geographic Coverage

EPA's I/M regulations require that state I/M programs be implemented in the entire urbanized area, based on the 1990 census. See 40 CFR 51.350. We have found in our approvals of the Arizona VEI program in 1995 and 2003 that the geographic coverage of the VEI program in the Phoenix area meets the minimum requirements of EPA's I/M regulations. Since then, no regulatory changes or new designations have changed the minimum requirements with respect to the geographic coverage of the I/M program in the Phoenix area, and thus, the expansion of the boundaries of Area A, which define the area in which the VEI program is implemented, is also acceptable.

2. Vehicle Coverage and Exemptions

The performance standard for enhanced I/M programs (including alternate low enhanced programs) assumes coverage of all 1968 and later model year light duty vehicles and trucks. Light duty trucks are not included in the performance standard for basic I/M programs. Other levels of coverage may be approved if the necessary emission reductions are achieved. See 40 CFR 51.356.

The Arizona VEI programs approved by EPA in 1995 exempt several categories of vehicles from the emissions testing requirements. Such vehicle categories included, among others, vehicles manufactured in or before the 1966 model year and vehicles being sold between motor vehicle dealers. See 60 FR 22518, 22521 (May 8, 1995). In 2003, we approved revisions to the VEI programs including an exemption for the first five model year vehicles on a rolling basis. See 68 FR 2912 (January 22, 2003). In 2007, we exempted collectible vehicles from the Phoenix and Tucson areas and motorcycles from the Tucson area. The SIP revision we are acting on today would establish an additional vehicle category that would be exempt from emissions testing requirements: Motorcycles from the Phoenix area. Based on data for calendar year 2008, motorcycles make up approximately 38,100 (or 3.7 percent) of the 1,027,600 total number of vehicles subject to VEI in the Phoenix area. See table 9 on page 17 of the 2009 VEI SIP Revision.

Basic and enhanced I/M programs are not required to test any particular category of motor vehicles so long as the performance standard is met, and thus I/M programs are not required to test motorcycles. The effect of the new exemption for motorcycles on the continued ability of the VEI program in the Phoenix area to meet the enhanced I/M program performance standard is discussed below in Section III.B.3, ''Performance Evaluation,'' and the effect of the new exemptions on emissions and ambient air quality in Phoenix is discussed herein in Section III.C, ''Demonstrating Noninterference With Attainment And Maintenance Under CAA Section 110(l).''

3. Compliance Enforcement

Section 51.361 of title 40 of the CFR requires that denial of motor vehicle registration be the method used to ensure compliance with enhanced I/M programs. ARS Section 49–542(D) and Arizona Administrative Code (AAC) R18–2–1007 requires that all vehicles must complete a vehicle emissions inspection to obtain a vehicle registration.

Exemption of motorcycles in the Phoenix area from emissions testing would be straightforward from the standpoint of compliance enforcement and would not undermine compliance enforcement for other types of vehicles that continue to be subject to the emissions testing requirements under the VEI program in the Phoenix area. Owners of motorcycles registered in the Phoenix area will simply receive a registration or re-registration form from the Arizona Department of Transportation, Motor Vehicle Division that indicates ''emissions test not required.''

Therefore, we find that the Arizona VEI programs, as amended to exempt motorcycles in the Phoenix area, would continue to meet the compliance enforcement requirements of 40 CFR 51.361.

4. Performance Evaluation

As part of the 2009 VEI SIP Revision submittal, ADEQ provided an updated performance evaluation using the EPA's motor vehicle emissions model, MOBILE6.2.[10] The updated performance evaluation included a summary report and paper copies of MOBILE6.2 input and output files. The purpose of the updated performance evaluation is to determine whether the VEI program, as amended to exempt motorcycles, would continue to meet the federal enhanced I/M performance standard (codified at 40 CFR 51.351) in the Phoenix area. The need for an updated performance evaluation follows from the fact that the Phoenix area, which was designated as nonattainment for the 1-hour ozone NAAQS (at the time of designation for the 8-hour ozone nonattainment), is designated as nonattainment for the 8-hour ozone NAAQS and that enhanced I/M remains an ''applicable requirement'' for such areas under our final rule implementing the 8-hour ozone NAAQS [see 40 CFR 51.900(f) and 51.905(a)(1)].

For the updated evaluation, ADEQ developed and applied reduction factors

[10] ADEQ submitted the 2009 VEI SIP Revision prior to the availability and requirement to use EPA's Motor Vehicle Emissions Simulator model ''MOVES2010''. While ADEQ's 2011 VEI SIP Addendum was submitted after the availability of MOVES2010, we did not require the use of the new MOVES2010 model because significant work had already begun on the SIP revision. See 75 FR 9411 (March 2, 2010).

to exclude motorcycles from the fleet tested under the VEI program as provided for in HB 2280. ADEQ then compared the emissions reduction benefits from the revised VEI program with the corresponding benefits that would be achieved under EPA's alternate low enhanced I/M performance standard.

The results of ADEQ's analysis are summarized in Table 1 below, which shows that the emissions reduction benefits achieved by the Phoenix VEI program as amended are higher than those achieved under the performance standard. The amended Phoenix VEI program thus continues to achieve greater emissions reductions than the federal model program because the VEI program includes elements that go beyond federal I/M requirements. These include a requirement for a one-time only waiver, an implementation area beyond the nonattainment area boundaries, and denial of waivers for grossly-emitting vehicles.

TABLE 1—RESULTS OF ADEQ'S ALTERNATE LOW ENHANCED PERFORMANCE STANDARD MODELING [a]

	2002			2008		
	VOC	NO_X	CO	VOC	NO_X	CO
I/M Benefits in Area A (grams/mile)	0.201	0.109	2.938	0.088	0.101	1.579
I/M Performance Standard benefits (grams/mile)	0.152	0.026	2.262	0.056	0.006	1.160

[a] The emission rates in this table represent the difference between the fleet-wide emission rate under the applicable program (i.e., amended Arizona VEI program or EPA's I/M model program) and the corresponding emission rate under the no-I/M scenario. See Table 8 on page 16 of the 2009 VEI SIP Revision.

Based on our review of the 2009 VEI SIP Revision, we find ADEQ's methods used to update the performance standard evaluation and use of the alternate low enhanced I/M performance standard to be acceptable, and we find that the VEI program, as amended to exempt motorcycles in the Phoenix area from the emissions testing requirements, exceeds the alternate low enhanced I/M performance standard in the Phoenix area as required under 40 CFR 51.351 and 51.905(a)(1).

C. Demonstrating Noninterference With Attainment and Maintenance Under CAA Section 110(l)

Revisions to SIP-approved control measures must meet the requirements of Clean Air Act section 110(l) to be approved by EPA. Section 110(l) states in relevant part: ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.''

We interpret section 110(l) to apply to all requirements of the CAA and to all areas of the country, whether attainment, nonattainment, unclassifiable, or maintenance for one or more of the six criteria pollutants. We also interpret section 110(l) to require a demonstration addressing all pollutants whose emissions and/or ambient concentrations may change as a result of the SIP revision. Thus, for example, modification of a SIP-approved measure may impact NO_X emissions, which may impact ozone and $PM_{2.5}$. The scope and rigor of an adequate section 110(l) demonstration of noninterference depends on the air quality status of the area, the potential impact of the revision on air quality, the pollutant(s) affected, and the nature of the applicable CAA requirements.

The 2009 VEI SIP Revision submittal that seeks exemption of motorcycles from the Phoenix enhanced I/M program includes an evaluation of the effects of the revision to the VEI programs on ozone, carbon monoxide, $PM_{2.5}$, and PM_{10} within the Phoenix metropolitan area. The details of ADEQ's evaluation of the emissions effects and related ambient air quality impacts of the new exemptions are contained in ''Technical Support Document for Evaluating Emissions Impacts of Exempting Motorcycles from Vehicle Emissions Inspections and Comparing Inspection and Maintenance (I/M) Emission Reduction Benefits in Area A with the EPA Enhanced I/M Performance Standard (August 19, 2009)'' (''2009 Report''), which was included as Appendix B to the 2009 VEI SIP Revision.

The 2009 report indicates that ADEQ used the EPA's motor vehicle emissions model program, MOBILE6.2, to estimate the emissions effects of the new exemptions. The methods used to gather data included acquisition of data from the State vehicle emissions inspections programs, other state agencies, air quality planning agencies and relevant air quality plans. We find that ADEQ used reasonable methods and appropriate models in estimating the emissions effects of the new exemptions. Table 2 below summarizes ADEQ's estimates by pollutant in units of metric tons per day (mtpd). Table 2 also shows the emissions impact as a percentage of the overall pollutant-specific inventory in the applicable area.

TABLE 2—VOC AND CO EMISSIONS INCREASES ASSOCIATED WITH THE 2009 VEI SIP REVISION [a]

Pollutant	Area-wide total emissions (mtpd)	I/M benefit from motor-cycle test and repair (mtpd)	Percent of areawide total emissions inventory
Volatile Organic Compounds	606.7	0.056	0.009
Carbon Monoxide	912.3	0.246	0.027

[a] I/M Benefit = the reduction in on-road emissions due to the motorcycle exemption in Area A. See pages 7 and 12 of 2009 VEI SIP Revision.

1. Ozone

Ozone is formed by the interaction of directly-emitted precursor emissions, volatile organic compounds (VOC) and oxides of nitrogen (NO_X), as influenced by the meteorological and topographical features of an area.

As noted above, in 2004, EPA designated the Phoenix area as a nonattainment area for the 1997 8-hour ozone standard, 69 FR 23858 (April 30, 2004), and in 2012, designated the Phoenix area as a nonattainment area for the 2008 8-hour ozone standard, 77 FR 30088 (May 21, 2012).

As indicated in Table 2 above, based on ADEQ's estimates, the revision to the 2009 VEI program in Phoenix would increase VOC emissions by approximately 0.056 metric tons per day, which represents approximately 0.009% of the overall VOC emissions inventory in this area under existing conditions. ADEQ did not estimate NO_X emissions, but we agree with ADEQ's assertion that repairs to vehicles to reduce VOC and CO emissions often result in an incremental increase in NO_X emissions and, thus, discontinuance of such repairs (e.g., through an exemption) could result in an incremental decrease in such emissions.

While minor, the incremental increase in VOC emissions due to the motorcycle exemption would occur in an area that is violating the 2008 ozone standard based on the design value for 2008–2010.

ADEQ's 2011 VEI SIP Addendum includes a measure that is intended to substitute for the foregone VOC emissions reductions from the motorcycle exemption and to thereby provide a basis to find that the 2009 VEI SIP Revision would not interfere with attainment of the 2008 ozone standard. The measure identified as the substitute is a 2008 EPA rule for aerosol coatings (spray paints and coatings) (''coatings rule''). See 73 FR 15604 (March 24, 2008) 74 FR 29595 (June 23, 2009). The compliance date for the 2008 EPA coatings rule was July 1, 2009. The designation of the Phoenix-Mesa area as a ''marginal'' nonattainment for the 2008 ozone NAAQS reflects ambient data from calendar years 2008–2010, and thus reflects in part the VOC emission reduction benefit from the 2008 EPA coatings rule and still the Phoenix area appears to be violating the 2008 ozone standard. Thus, with the information available at the present time, we cannot conclude that the coatings rule would offset the VOC emissions increases estimated to occur due to the motorcycle exemption. However, we find that the expansion of the boundaries of Area A, as submitted in regulatory form in ADEQ's submittal dated May 25, 2012, would more than offset the incremental increase in VOC emissions.

As noted above, the estimated benefit of ''Expansion of Area A Boundaries'' would be approximately 1.3 metric tons per day of VOC due to the extension of the applicability of the VEI program to areas not otherwise subject to the program.[11] In contrast, the incremental increase in VOC emissions due to the motorcycle exemption is estimated by ADEQ to be less than 0.1 metric tons per day (or more specifically, 0.056 mtpd). Thus, we find that exempting motorcycles from emissions testing under the VEI program, together with expanding the boundaries of Area A, would not interfere with attainment or maintenance of the ozone NAAQS in the Phoenix area.

2. Carbon Monoxide

Carbon monoxide (CO) is a product of incomplete combustion of fuels. In most urban areas, most of the CO comes from motor vehicle exhaust.

In 2005, EPA redesignated the Phoenix area for CO, and approved a maintenance plan that provides for maintenance of the CO NAAQS in that area through 2015. See 70 FR 11553 (March 9, 2005) and 70 FR 52926 (September 6, 2005).

As indicated in Table 2 above, based on ADEQ's estimates, the motorcycle exemption would increase CO emissions by approximately 0.246 metric tons per day, which represents approximately 0.027% of the overall CO emissions inventory in this area under existing conditions. This incremental increase would be more than offset by the expansion of Area A boundaries.[12] Moreover, the net reduction in CO emissions due to these SIP revisions would occur in an area where overall CO emissions are expected to remain relatively constant over the next 10 years and where ambient CO levels are well below the NAAQS.

Specifically, overall CO emissions are expected to decrease by only 1% between 2006 and 2015,[13] and the highest second-highest value (i.e., the basis for the NAAQS) collected among the 14 stations comprising the CO monitoring network in the Phoenix area is 4.6 ppm, eight-hour average, or less than 55% of the 8-hour CO NAAQS (based on 2006–2007 data).[14]

Therefore, based on the net reduction in CO emissions due to the VEI SIP Revision and expansion of Area A boundaries, the relatively constant level of overall CO emissions, and monitoring data that shows that ambient CO levels remain well below the CO NAAQS, we find that exempting motorcycles from emissions testing under the VEI program, together with expanding the boundaries of Area A, would not interfere with continued attainment of the CO NAAQS in the Phoenix area.

3. Particulate Matter

EPA has promulgated different NAAQS for particles with a nominal aerodynamic diameter of 10 microns or less (PM_{10}) and for particles with a nominal aerodynamic diameter of 2.5 micrometers (microns) or less ($PM_{2.5}$). Ambient PM_{10} and $PM_{2.5}$ levels consist of directly-emitted particles as well as secondary particles formed through atmospheric reactions involving such precursors as NO_X and sulfur dioxide (SO_2).

In 1990, the Phoenix area was designated as a ''moderate'' nonattainment for the PM_{10} NAAQS by operation of law under the CAA Amendments of 1990. EPA reclassified the area as ''serious'' in 1996. See 61 FR 21372 (May 10, 1996). In 2002, EPA approved the ''serious area'' PM_{10} plan, which was intended to provide for attainment of the PM_{10} NAAQS in the Phoenix area by 2006. See 67 FR 48718 (July 25, 2002); certain plan elements re-approved at 71 FR 43979 (August 3, 2006). In 2007, EPA finalized its finding that the Phoenix area had failed to attain the PM_{10} NAAQS by the applicable attainment date. See 72 FR 31183 (June 6, 2007). Finally, on February 14, 2011, EPA finalized its finding that the Phoenix area had failed to submit an attainment demonstration SIP for its PM_{10} nonattainment area. See 76 FR 8300 (February 14, 2011). PM_{10} emissions in the Phoenix area are largely attributable to coarse particles, composed primarily of geologic material.[15]

In 2005, EPA designated Maricopa County as ''unclassifiable/attainment'' for the 1997 $PM_{2.5}$ NAAQS. See 70 FR 944, at 954 (January 5, 2005). More recently, EPA designated Maricopa County as ''unclassifiable/attainment''

[11] See page 5–16 of the approved Phoenix-Mesa Eight-Hour Ozone Attainment Plan, and footnote #5 included in this action.

[12] On page ES–8 of MAG's *Carbon Monoxide Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area (May 2003),* MAG estimates that Area A Expansion would reduce area-wide CO emissions by 0.1%.

[13] See MAG's *Carbon Monoxide Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area (*May 2003), page 3–10.

[14] See page 13 of the 2009 VEI SIP Revision.

[15] ''PM–10 Source Apportionment and Deposition Study Prepared for Maricopa Association of Governments by Sierra Research, Inc.'', 2008, p. 2.

for the 2006 $PM_{2.5}$ NAAQS. See 76 FR 6056 (February 3, 2011). Local monitoring by co-located PM_{10} and $PM_{2.5}$ monitors confirms that $PM_{2.5}$ on high PM_{10} days is a small fraction of the PM_{10} concentrations.

PM_{10} emissions are emitted as a product of incomplete combustion along with such other pollutants as CO and VOC, and because the exemption of motorcycles from emissions testing requirements of the VEI program in the Phoenix area would incrementally increase emissions of the latter pollutants, it would also likely result in the incremental increase of the former as well.

Neither the MOBILE6.2 nor the MOVES2010 emissions models provide any PM_{10} emission reduction credit for the I/M program. In light of its failure to attain the PM_{10} NAAQS, however, EPA requested ADEQ to attempt to quantify the PM_{10} emissions impact of this new exemption. ADEQ used the MOBILE6.2 model to estimate the I/M impact on PM_{10} emissions from motorcycles based on the gaseous hydrocarbon emissions. ADEQ's estimated PM_{10} emissions in Area A due to the exemption of motorcycles from the VEI program is equivalent to approximately 0.000361% of the total PM_{10} emissions in Area A.[16] However, similar to our evaluation for ozone, we find that the expansion of the boundaries of Area A would more than offset the minimal estimated increase in PM_{10} emissions due to the motorcycle exemption. As a result, we conclude that the motorcycle exemption, combined with the expansion of the boundaries in Area A, would be consistent with attainment of the PM_{10} standard in the Phoenix area.

With respect to the $PM_{2.5}$ standard, all of the PM_{10} from exhaust can be assumed to be $PM_{2.5.}$ We believe that the motorcycle exemption, considered together with the expansion of Area A boundaries, would not interfere with attainment or maintenance of the $PM_{2.5}$ standard because there would be a net decrease in emissions and because the area is currently attaining the standard.

4. Air Toxics

Since the CAA does not have ambient air quality standards for air toxics, the EPA's interpretation of section 110(l) is that an area's compliance with any applicable Maximum Achievable Control Technology (MACT) standards, as well as any Federal Motor Vehicle Control Programs (FMVCP) under sections 112 or 202(l) of the CAA constitutes an acceptable demonstration of noninterference for air toxics. Motor vehicles are not subject to MACT standards, and the VEI SIP Revision, together with the expansion of Area A boundaries, will not interfere with any Federal Motor Vehicle Control Programs that apply in the area. For these reasons, the State thus concludes, and EPA concurs, that the VEI SIP Revision and expansion of Area A boundaries would not interfere with any applicable CAA requirements relative to air toxics.

5. Conclusion

Based on the evaluation presented above, we find that the exemption of motorcycles in the Phoenix area from the VEI program, coupled with the expansion of the boundaries of Area A would not interfere with reasonable further progress or attainment of any of the NAAQS, and thus, we propose to approve the 2009 VEI SIP Revision, 2011 VEI SIP Addendum, and the expansion of the boundaries of Area A [i.e., amended ARS section 49–541(1)] as consistent with the requirements for SIP revisions under CAA section 110(l).

D. Contingency Provisions of CAA Section 175A(d)

In 2005, EPA redesignated the Phoenix area from nonattainment to attainment for the CO NAAQS and approved a maintenance plan. See 70 FR 11553 (March 9, 2005) and 70 FR 52926 (September 6, 2005). The CO maintenance plan includes contingency elements or plans that we approved as meeting the requirements of CAA section 175A(d).

The contingency plan establishes an action (or trigger) level protective of the NAAQS and identifies several measures, including expansion of ''Area A'' (the area in which certain control measures apply), for early implementation as well as consideration of additional measures on a set schedule following the triggering event. At the time of redesignation of the Phoenix area to attainment for the CO NAAQS, the VEI programs were adopted and approved into the Arizona SIP and were assumed to continue in effect throughout the maintenance periods. Moreover, the VEI programs at the time of redesignation of these areas did not exempt motorcycles from the emissions testing requirements.

Generally, contingency plans should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State and should also identify specific indicators, or triggers, which will be used to determine when the contingency measures need to be implemented. See EPA Memorandum from John Calcagni, Office of Air Quality Planning and Standards, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' dated September 4, 1992. At a minimum, CAA section 175A(d) requires that the State adopt as contingency measures all control measures that had been approved in the SIP for the area prior to redesignation but that the State subsequently repeals or relaxes. In this instance, because the EPA-approved VEI emissions testing requirements applied to motorcycles at the time of redesignation for the Phoenix area, reinstatement of emissions testing for this newly-exempt vehicle category must be adopted as contingency measures for the Phoenix CO maintenance areas to comply with CAA section 175A(d).

ADEQ's 2009 VEI SIP Revision includes a new contingency measure establishing a binding commitment on ADEQ to request Legislative action to reinstate emissions testing for motorcycles in the Phoenix area should the applicable area experience a violation of the CO standards.[17] Specifically, ADEQ's contingency measure involves notification to the Legislature by the October following a violation of the CO standard in the Phoenix area. After notifying the Legislature, ADEQ will request that the Arizona Legislature enact new legislation to reinstate the motorcycle exemption during the General Legislative Session that begins in January. ADEQ's request to the Legislature will call for testing to be renewed for the newly exempt vehicle category in the Phoenix testing area beginning the January following the General Legislative Session.

We view ADEQ's contingency measure in the context of the existing EPA-approved CO contingency plans for the Phoenix area, and as such, we find that the plans, as amended to include these new contingency measures, continue to meet the requirements of CAA section 175A(d), and that the new contingency measure itself is consistent with all applicable requirements.

IV. EPA's Proposed Action and Request for Public Comment

Under section 110(k) of the CAA, EPA is proposing to approve the revisions to the Arizona SIP submitted by ADEQ on November 6, 2009 and January 11, 2011 concerning the exemption of motorcycles from the Arizona VEI program in the Phoenix area, because we find that the revisions meet all

[16] See pages 11–13 of the 2011 VEI SIP Addendum.

[17] See page 19 of the 2009 VEI SIP Revision.

applicable requirements, and together with the expansion of the geographic area to which the VEI and other air pollution control measures apply, would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards. EPA is also proposing to approve the revised statutory provision [amended Arizona Revised Statutes (ARS) section 49–541(1)], submitted by ADEQ on May 25, 2012,[18] that expands the boundaries of Area A, i.e., the area in which the various air pollution control measures (including the VEI, and cleaner burning gasoline and stage II vapor recovery programs) in the Phoenix area apply.

We will accept comments from the public on this proposal for the next 30 days.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 22, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–26977 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

[18] Final approval of the amendment to ARS 49–541(1) that expands the boundaries of ''Area A'' to those promulgated by the Arizona Legislature in 2001 would supersede the previous versions of ARS 49–541(1) approved into the Arizona SIP and would expand the applicability under the Arizona SIP of the VEI program, the CBG program, the Stage II vapor recovery program and any other Arizona SIP control measure that relies on the definition of ''Area A'' in ARS 49–541(1).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0614; FRL–9749–1]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compounds (VOC), carbon monoxide (CO), oxides of nitrogen (NO_X), oxides of sulfur (SO_X), and particulate matter (PM) emissions from glass melting furnaces. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by December 5, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0614, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at *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 at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Robert Marinaro, EPA Region IX, (415) 972–3019, *marinaro.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was amended by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD	4354	Limiting Emissions from Glass Melting Furnaces.	05/19/11	09/27/11

On October 24, 2011, EPA determined that the submittal for SJVUAPCD Rule 4354 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 4354 into the SIP on June 24, 2011 (76 FR 53640). The SJVUAPCD adopted revisions to the SIP-approved version on May 19, 2011 and CARB submitted them to us on September 27, 2011.

C. What is the purpose of the submitted rule revision?

VOCs and NO_X help produce ground-level ozone and smog, which harm human health and the environment. PM, NO_X and SO_X also contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control VOC, NO_X, SO_X and PM emissions. The purpose of this rule revision is to incorporate provisions for new oxy-fuel firing technology. This technology, by design, operates in an oxygen-rich environment in excess of the existing requirement, but still has inherently low NO_X emissions during start-up. The proposed amendment prevents oxy-fuel fired glass melting furnaces from having to comply with an unnecessary start-up requirement. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). In addition, SIPs must implement Reasonably Available Control Measures (RACM) in PM 2.5 nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)).

The SJVUAPCD regulates an ozone and PM 2.5 nonattainment area (see 40 CFR part 81), so Rule 4354 must fulfill RACT and the overall SIP must fulfill RACM.

Guidance and policy documents that we use to evaluate enforceability, RACT and RACM requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.
7. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.
8. ''Improving Air Quality with Economic Incentive Programs,'' U.S. EPA, January 2001.
9. ''Interim White Paper—Midwest RPO Candidate Control Measure: Glass Manufacturing'', Lake Michigan Air Directors Consortium, December 12, 2005.
10. ''Alternative Control Techniques Document—O_X Emissions from Glass Manufacturing'', US EPA, June 1994.
11. ''Integrated Pollution Prevention and Control (IPPC) Reference Document on Best Available Techniques in the Glass Manufacturing Industry'', European Commission, December 2001.
12. ''State Implementation Plans (SIP): Policy Regarding Excess Emissions During Malfunctions, Startup and Shutdown,'' EPA memorandum, Steven A. Herman and Robert Perciasepe, August 11, 1999. *http://www.epa.gov/ttn/oarpg/t1/memoranda/excem.pdf.*

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACM/RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations to Further Improve the Rule

The TSD describes an additional rule revision that we recommend for the next time the local agency modifies the rule but is not currently the basis for rule disapproval.

D. Public Comment and Final Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

III. Statutory and Executive Order Review

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

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

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the 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, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds, Reporting and recordkeeping requirements.

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

Dated: October 17, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–26978 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 77, No. 214

Monday, November 5, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974, System of Records

AGENCY: United States Agency for International Development.

ACTION: Notice to delete system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (U.S.C. 552a), as amended, the United States Agency for International Development (USAID) is deleting the AID–15 Employee Payroll Records, system of records in its existing inventory.

DATES: This proposed action will be effective on December 22, 2012.

ADDRESSES: You may submit comments:

Paper Comments:

- *Fax:* (703) 666–5670
- *Mail:* Chief Privacy Officer, United States Agency for International Development, 2733 Crystal Drive, 11th Floor, Arlington, Va. 22202

Electronic Comments:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.
- *Email: privacy@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact, USAID Privacy Office, United States Agency for International Development, 2733 Crystal Drive, 11th Floor, Arlington, VA. 22202. Email: *privacy@usaid.gov.*

SUPPLEMENTARY INFORMATION: USAID has reviewed its Privacy Act systems of records. As a result of this review, USAID is deleting the AID–15 Employee Payroll Records system of records because it is now covered under a government-wide system of records: OPM/GOV–1 General Personnel Records.

Dated: October 30, 2012.

William Morgan,

Chief Information Security Officer—Chief Privacy Officer.

AID–15

DELETION:

Employee Payroll Records

REASON:

Based upon a review of AID–15, it has been determined that the system is already covered under OPM/GOV–1 General Personnel Records.

Meredith Snee,

USAID Privacy Analyst.

[FR Doc. 2012–26966 Filed 11–2–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. Nos. AMS–TM–12–0050; TM–12–02]

Request for Extension and Revision of a Currently Approved Information Collection for the National Farmers Market Questionnaire

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this document announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection for the National Farmers Market Manager Questionnaire.

DATES: Comments on this document must be received by January 4, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this information collection document. Comments can be sent to Edward Ragland, Marketing Services Division, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 4523 South Building, Ag Stop 0269, Washington, DC 20250–0269 or online to *http://www.regulations.gov.* All written comments should be identified with the document numbers AMS–TM–12–0050; TM–12–02. All comments received will be available for public inspection during regular business hours at the same address. It is our intention to have all comments whether submitted by mail or internet available for viewing on the Regulations.gov (*www.regulations.gov*) Internet site. Comments submitted will also be available for public inspection in person at USDA–AMS, Transportation and Marketing Programs, Marketing Services Division, Room 2646—South Building, 1400 Independence Ave. SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received are requested to make an appointment in advance by calling (202) 720–8317.

FOR FURTHER INFORMATION CONTACT: Edward Ragland at the above physical address or by telephone (202) 720–8317 or by email at *Edward.Ragland@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Farmers Market Questionnaires.

OMB Number: 0581–0169.

Expiration Date of Approval: March 31, 2013.

Type of Request: Extension and revision of a currently approved information collection of the National Farmers Market Questionnaire.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Marketing Services Division (MSD) of AMS is to facilitate distribution of U.S. agricultural products. The division identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates solutions including improving farmers markets and other direct-to-consumer marketing activities.

Farmers markets, on-farm markets, as well as, community supported agriculture (CSAs) comprise an integral part of the urban/farm linkage and have continued to rise in popularity, mostly due to the growing consumer interest in obtaining fresh products directly from the farm. The use of these direct marketing channels has enabled farmers

to receive a larger share of consumer's food dollar. Farmers markets allow consumers to have access to locally grown farm fresh produce; enables farmers the opportunity to develop a personal relationship with their customers; and cultivate consumer loyalty with the farmers. They are also playing an increasing role in encouraging healthier eating.

A farmers market operates multiple times per year and is organized for the purpose of facilitating personal connections that create mutual benefits for local farmers, shoppers and communities. To fulfill that objective, farmers markets define the term local, regularly communicate that definition to the public, and implement rules/guidelines of operation that ensure that the farmers market consists principally of farms selling directly to the public products that the farms have produced.

An on-farm market is an area of a facility affiliated with a farm where transactions between a farm market operator and customers take place. A farm market may operate seasonally or year-round. Farm markets are an important component of direct marketing, adding value by offering customers a visit to the farm and the opportunity to purchase products from the people who grew them.

Community Supported Agriculture (CSA) is a another type of food-production and direct marketing relationship between a farmer or farmers and a group of consumers who purchase ''shares'' of the season's harvest in advance of the growing season. The up-front working capital generated by selling shares reduces the financial risk to the farmer(s). Generally farmers receive better prices for their crops and, reduced marketing costs. Consumers benefit by receiving weekly delivery of fresh locally-grown fruits, vegetables, meats, eggs and other produce. They also benefit from the ability to collectively support the sustainability of local farmers.

Currently, the USDA farmers market survey is conducted every 4 years and collects information concerning farmers market characteristics. The USDA also collects data on an annual basis to update its listing in the web-based National Farmers Market Directory. There was an overlap in the information that is collected through these two efforts. The revised survey, which will be web-based and data-driven, will collect information not only about farmers markets, but also on on-farm markets and CSAs.

This information that the modified survey collects will be used to update the Directory and also to describe the characteristics of farmers markets, CSAs and on-farm markets and to identify trends in their communities.

Modifying the survey to simultaneously collect information for multiple purposes will increase response rates, reduce duplicity in information collected by respondents, and to add convenience to respondents.

Information currently collected as part of USDA annual Directory update will be incorporated as part of the revised farmers market instrument. Additional questions, related to on-farm markets and CSAs, will be added to the survey. The web-based survey will incorporate an advanced GIS mapping capability, the ability to immediately stratify the respondents and direct them to the survey modules relevant to their characteristics.

Topic areas in the survey:

—Characteristics and history of farmers markets, on-farm markets and CSAs
—Types of products sold, including fresh, locally-grown produce
—Location of the markets
—Programs to encourage healthy eating
—Special events
—Marketing methods
—Participation in federal programs designed to increase consumption of fresh fruits and vegetables.
—Vendor retention and recruitment
—Market growth and enhancement
—Contribution to economic development
—Awareness and participation in grant and educational programs
—What information do farmers market managers have or how do they derive estimates of number of customers, sales, number of vendors, and vendor characteristics

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.317 hours per response.

Respondents: Farmers Market Managers, Operators of Community Supported Agriculture (CSA's), farm operations, farm operators that operate on farm stores.

Estimated Number of Respondents: 64,364.

Estimated Total Annual Responses: 6,000.

Estimated Number of Responses per Respondent: .093.

Estimated Total Annual Burden on Respondents: 2,060 hours.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The information collected is used only by authorized employees of the USDA, AMS.

All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: October 26, 2012.

Rex A. Barnes,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–26956 Filed 11–2–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 4, 2013.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Ave. SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202)690–1078. FAX: (202) 720–8435.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR

1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 720–8435.

Abstract

The American Recovery and Reinvestment Act of 2009 (the ''Recovery Act''), Congress appropriated $2.5 billion of budget authority for establishing the Broadband Initiatives Program (BIP) which may extend loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. In facilitating the expansion of advanced communications services and infrastructure, the program will advance the objectives of the Recovery Act to spur job creation and stimulate long-term economic growth and opportunity.

The collection of information for this program is vital to RUS to ensure compliance with the provisions of this Notice and to fulfill the requirements of the Recovery Act. In summary, the collection of information is necessary in order to implement this program.

1. Reporting and Registration Requirement Under Section 1512 of the Recovery Act

a. This award requires the recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

b. The first report is due no later than ten calendar days after the initial calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act, or by October 10, 2009. Thereafter, reports shall be submitted no later than the tenth day after the end of each calendar quarter.

c. Recipients and their first-tier recipients must maintain current registrations in the CCR (*http://www.ccr.gov.*) at all times during which they have active federal awards funded with Recovery Act funds. A DUNS number is one of the requirements for registration in the CCR.

d. The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at *http://www.FederalReporting.gov,* unless the information is pre-populated.

2. Agencies' Additional Paperwork Reduction Act Analysis

Copies of all forms, regulations, and instructions referenced in this NOFA may be obtained from RUS. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

The following estimates are based on the average over the past three years the program has been in place.

Title: Broadband Initiatives Program (BIP).

OMB Control Number: 0572–0142.

Type of Request: Revision of a currently approved information collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.5 hours per response.

Respondents: Business or other for profits; not-for-profit institutions; and State, local, and Tribal.

Estimated Number of Respondents: 282.

Estimated Number of Responses per Respondent: 1.5.

Estimated Number of Responses: 1,995.

Estimated Total Annual Burden (hours) on Respondents: 6,905.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 26, 2012.

John Charles Padalino,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2012–26889 Filed 11–2–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893]

Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 23, 2012, the United States Court of International Trade (''CIT'') sustained the Department of Commerce's (''the Department'') results of redetermination, pursuant to the CIT's remand order, in *Shantou Red Garden Foodstuff Co., Ltd.,* v. *United States,* Slip Op. 12–133 (CIT 2012).[1]

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *PRC Final Determination*[2] and *PRC Amended Final Determination & Order*[3] and is amending those final and amended final determinations with respect to Shantou Red Garden Foodstuff Co., Ltd. (''Red Garden'').

DATES: *Effective Date:* November 2, 2012.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

[1] *See* Final Results Of Redetermination Pursuant To Court Remand, Court No. 05–00080, dated April 26, 2012, available at: *http://ia.ita.doc.gov/remands/12-7.pdf* (''*Red Garden 2012 Final Remand*''); *see also Shantou Red Garden Foodstuff Co., Ltd.* v. *United States,* Consol. Court No. 05–00080, Slip Op. 12–07 (CIT 2012) (''*Remand Opinion and Order*'').

[2] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China,* 69 FR 70997 (December 8, 2004) (''*PRC Final Determination*'').

[3] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China,* 70 FR 5149 (February 1, 2005) (''*PRC Amended Final Determination & Order*'')

Background

On January 13, 2012, the CIT remanded to the Department five determinations made with respect to Red Garden in the *PRC Final Determination* and *PRC Amended Final Determination & Order,* two of which the Department requested for voluntary remand.[4] Specifically, the CIT held that: (1) The Department erred in applying partial adverse facts available (''AFA'') for certain missing factors of production (''FOP'') information from one of the unaffiliated producers for Red Garden; (2) the Department must reconsider its determination of the surrogate value (''SV'') for fresh, raw, head-on, shell-on shrimp; (3) the Department must recalculate Red Garden's margin using the correct production volume for a certain Red Garden supplier; (4) the Department must redetermine the SV for labor expenses consistent with the CAFC's decision in *Dorbest*;[5] and (5) the Department unlawfully refused to allow Red Garden to correct a miscalculation for its growth stage multiplier submitted prior to verification.

Pursuant to the CIT's remand instructions, the Department re-examined record evidence and made the following changes. First, as facts otherwise available, we substituted Shantou Jinyuan District Mingfeng Quick-Frozen Factory (''Mingfeng'') and Shantou Longfeng Foodstuff Co., Ltd. (''Longfeng'') FOPs for Red Garden's sales of subject merchandise supplied by Meizhou, as it did in the original *Preliminary Determination*[6] using the most updated FOP database submitted by Red Garden. Second, the Department relied on the publicly ranged financial statement data for Devi Sea Foods Ltd. (''Devi''), rather than data for Nekkanti, as the basis for calculating the raw shrimp SV. Third, the Department determined that the correct production quantity of Mingfeng should be used to weight-average the FOP database because the correct quantity was on the record before verification, the Department used the correct amount in the *Preliminary Determination* to weight average the FOP database, and the Department eventually verified the correct amount. However, implementation of Mingfeng's production quantity was unnecessary in the *Red Garden 2012 Final Remand* because the Department had actually used the correct amount, as used in the *Preliminary Determination,* to weight average the FOP databases.[7] Accordingly, no changes were required in the margin program specific to this issue as it already contains the result mandated by the Court. Fourth, following *Dorbest,* the Department requested a voluntary remand of its wage rate calculations for Red Garden in the *Final Determination.* The CIT granted that request and remanded the *Final Determination* with instructions that the labor wage value be recalculated in accordance with law, supported with substantial evidence, and to comply with *Dorbest.* Consequently, the Department revised its valuation of Red Garden's reported labor input in the *Final Determination* in accordance with the CAFC's interpretation of section 773(c) of the Act as expressed in *Dorbest.* The Department, therefore, calculated an industry-specific hourly wage rate for the single, primary surrogate country, India. Lastly, in the *Final Determination,* the Department had not used the correct growth stage multiplier without explanation. The Department requested a voluntary remand for the purposes of considering Red Garden's supplier's growth stage multiplier and upon further review, the Department re-determined to use the revised growth stage multiplier collected at verification as there is no indication that the Department rejected it as a minor correction at verification or that it intended to reject it in the *Final Determination.*

On April 5, 2012, the Department released the draft redetermination of remand and invited interested parties to comment. The Department received no comments on the draft redetermination.[8] On October 23, 2012, the CIT affirmed all aspects of the Department's remand redetermination.[9]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's October 23, 2012, judgment sustaining the *Red Garden 2012 Final Remand* constitutes a final decision of that court that is not in harmony with the *PRC Final Determination* and *PRC Amended Final Determination & Order.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the subsequent and most recent period during which the respondent was reviewed.

Amended Final Determination

Because there is now a final court decision with respect to Red Garden, the revised dumping margin is as follows:

Manufacturer	Exporter	Weighted-average margin (percent)
Shantou Red Garden Foodstuff Co., Ltd	Shantou Red Garden Foodstuff Co., Ltd.	7.20

[4] *See Remand Opinion and Order.*

[5] *See Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372–73 (Fed. Cir. 2010) (''*Dorbest*'').

[6] *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China,* 69 FR 42654 (July 16, 2004) (''*Preliminary Determination*'').

[7] *See Red Garden 2012 Final Remand* at 12–13; *see also* Memorandum to the File; RE: Red Garden Final Determination Analysis Memorandum dated November 29, 2004, at SAS LOG lines 552–612.

[8] *See Shantou Red Garden Foodstuff Co., Ltd.* v. *United States,* Slip Op. 12–07, Court No. 05–00080, Draft Results of Redetermination Pursuant to Court Remand (April 5, 2012) and Red Garden Analysis Memorandum for the Draft Results of Redetermination (''Draft Results Analysis Memo'').

[9] *See Shantou Red Garden Foodstuff Co., Ltd.,* v. *United States,* Slip Op. 12–133 (CIT 2012).

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: October 31, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–27042 Filed 11–1–12; 4:15 pm]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–986]

Hardwood and Decorative Plywood From the People's Republic of China: Initiation of Antidumping Duty Investigation; Correction

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 5, 2012.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Katie Marksberry at (202) 482–3207 or (202) 482–7906, respectively, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Background: The Department of Commerce published a notice in the **Federal Register** on October 25, 2012, concerning the initiation of an antidumping duty investigation of hardwood and decorative plywood from the People's Republic of China.[1] The document as published did not include Appendix I, which was referenced in the ''Scope of the Investigation'' section. The referenced scope language is appended to this notice.

Dated: October 26, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

Hardwood and decorative plywood is a panel composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a finished product. A hardwood and decorative plywood panel can be composed of one or more species of hardwoods, softwoods, or bamboo, (in addition to other materials that are used for the core, as detailed below).

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP–1–2009; it is differentiated from ''structural plywood'' (also known as ''industrial plywood'' or ''industrial panels''), which must meet the ''bond performance'' requirements set forth at paragraph 5.8.6.4 of U.S. Products Standard PS 1–09 for Structural Plywood.

Hardwood and decorative plywood is primarily manufactured as a panel. The most common panel sizes are 1219 × 1829 mm (48 × 72 inches), 1219 × 2438 mm (48 × 96 inches), and 1219 × 3048 mm (48 × 120 inches). However, these panels may be cut-to-size by the manufacturer in accordance with a customer's requirements, or made to other sizes.

A ''veneer'' is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. The face veneer is the exposed veneer of a hardwood and decorative plywood product which is of a superior grade than that of the other exposed veneer of the product (i.e., as opposed to the inner veneers). The face veneer is also either side of the product when the two exposed veneers are of the same grade. The face veneer is also the side of the product that is intended to be exposed for view after installation.

The core of hardwood and decorative plywood consists of the layer or layers of material(s) that are situated between the front and back veneers. The core may be composed of a range of materials, including but not limited to veneers, particleboard, and medium-density fiberboard (MDF).

All hardwood and decorative plywood is included within the definition of subject merchandise regardless whether or not the face and/or back veneers are surface coated. Additionally, the face veneer of hardwood and decorative plywood may be sanded, smoothed or given a ''distressed'' appearance through such methods as hand-scraping or wire brushing. The face veneer may also be stained (i.e., to achieve a particular color).

Unless subject to a specifically enumerated exclusion detailed below, all hardwood and decorative plywood is included within the definition of subject merchandise, without regard to: Dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, and thickness of inner veneers; width; and length); wood species used for the face, back and inner veneers (including hardwoods, softwoods or bamboo); core composition; the grade of the face and back veneers; and whether or not surface coated (i.e., ''unfinished'' or ''prefinished''). The face and/or back veneers of the product may be sanded, smoothed, scraped or stained.

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP–1–2009. Regardless of whether the product meets the ANSI/HPVA standard, all hardwood and decorative plywood is included within this definition if it meets the physical description set forth therein.

The scope of the investigation excludes the following items: (1) Structural plywood that is manufactured and stamped to meet U.S. Products Standard PS 1–09 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), including but not limited to the ''bond performance'' requirements set forth at paragraph 5.8.6.4 of that Standard and the performance criteria detailed at Table 4 through 10 of that Standard; (2) plywood platforms with a face and back ply of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People's Republic of China, Import Administration, International Trade Administration, U.S. Department of Commerce Investigation Nos. A–570–970 and C–570–971 (published December 8, 2011); (4) plywood further manufactured or further worked aside from sanding, surface coating (*i.e.,* ''prefinishing''), scraping or staining (*e.g.,* bent or molded plywood; bent or molded plywood is defined as a flat panel that is purposely further manufactured through whatever means to achieve a shape or design other than a flat plane).

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (''HTSUS''): 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; and 4412.99.9000.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

[FR Doc. 2012–26972 Filed 11–2–12; 8:45 am]

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[1] *See Hardwood and Decorative Plywood From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 77 FR 65172 (October 25, 2012).

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for December 2012

The following Sunset Reviews are scheduled for initiation in December 2012 and will appear in that month's Notice of Initiation of Five-Year Sunset Review.

	Department contact
Antidumping duty proceedings	
Uranium from France (A–427–818) (2nd Review)	Dana Mermelstein (202) 482–1391.
Countervailing Duty Proceedings	
No Sunset Review of countervailing duty orders is scheduled for initiation in December 2012.	
Suspended Investigations	
Fresh Tomatoes from Mexico (A–201–820) (3rd Review)	Sally Gannon (202) 482–0162.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 19, 2012.

Susan H. Kuhbach,

Director, Office 1, Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–26954 Filed 11–2–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a

substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after November 2012, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of November 2012,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

	Period of review
Antidumping Duty Proceedings	
BRAZIL:	
Certain Circular Welded Non-Alloy Steel Pipe, A–351–809	11/1/11–10/31/12
Polyethylene Terephthalate Film, Sheet and Strip, A–351–841	11/1/11–10/31/12
GERMANY: Lightweight Thermal Paper, A–428–840	11/1/11–10/31/12
INDONESIA: Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, A–560–823	11/1/11–10/31/12
MEXICO:	
Certain Circular Welded Non-Alloy Steel Pipe, A–201–805	11/1/11–10/31/12
Seamless Refined Copper Pipe and Tube, A–201–838	11/1/11–10/31/12
REPUBLIC OF KOREA: Certain Circular Welded Non-Alloy Steel Pipe, A–580–809	11/1/11–10/31/12
TAIWAN:	
Certain Hot-Rolled Carbon Steel Flat Products, A–583–835	11/1/11–10/31/12
Certain Circular Welded Non-Alloy Steel Pipe, A–583–814	11/1/11–10/31/12
THAILAND: Certain Hot-Rolled Carbon Steel Flat Products, A–549–817	11/1/11–10/31/12
THE PEOPLE'S REPUBLIC OF CHINA: Certain Cut-To-Length Carbon Steel, A–570–849	11/1/11–10/31/12
Certain Hot-Rolled Carbon Steel Flat Products, A–570–865	11/1/11–10/31/12
Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, A–570–958	11/1/11–10/31/12
Diamond Sawblades and Parts Thereof, A–570–900	11/1/11–10/31/12
Fresh Garlic, A–570–831	11/1/11–10/31/12
Lightweight Thermal Paper, A–570–920	11/1/11–10/31/12
Paper Clips, A–570–826	11/1/11–10/31/12
Polyethylene Terephthalate Film, Sheet and Strip, A–570–924	11/1/11–10/31/12
Pure Magnesium in Granular Form, A–570–864	11/1/11–10/31/12
Refined Brown Aluminum Oxide, A–570–882	11/1/11–10/31/12
Seamless Carbon and Alloy Steel Standard, Line, A–570–956 and Pressure Pipe	11/1/11–10/31/12
Seamless Refined Copper Pipe and Tube, A–570–964	11/1/11–10/31/12
UKRAINE: Certain Hot-Rolled Carbon Steel Flat Products, A–823–811	11/1/11–10/31/12
UNITED ARAB EMIRATES: Polyethylene Terephthalate Film, Sheet and Strip, A–520–803	11/1/11–10/31/12
Countervailing Duty Proceedings	
INDONESIA: Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, C–560–824	1/1/11–12/31/11
THE PEOPLE'S REPUBLIC OF CHINA:	
Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses, C–570–959	1/1/11–12/31/11
Lightweight Thermal Paper, C–570–921	1/1/11 -12/31/11
Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, C–570–957	1/1/11–12/31/11

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
Suspension Agreements	
Ukraine: Certain Cut-to-Length Carbon Steel, A–823–808	11/1/11–10/31/12

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

All requests must be filed electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of November 2012. If the Department does not receive, by the last day of November 2012, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 19, 2012.

Susan H. Kuhbach,

Director, Office 1, Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–26965 Filed 11–2–12; 8:45 am]

BILLING CODE 3510–DS–P

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping and countervailing duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

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

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year* (''Sunset'') Reviews of Antidumping and

Countervailing Duty Orders: Policy Bulletin, 63 FR 18871 (April 16, 1998), and in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–865	731–TA–899	China	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.
A–533–820	731–TA–900	India	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein Steel, (202) 482–1391.
C–533–821	701–TA–405	India	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	David Goldberger, (202) 482–4136.
A–560–812	731–TA–901	Indonesia	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.
C–560–813	701–TA–406	Indonesia	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	David Goldberger, (202) 482–4136.
A–583–835	731–TA–906	Taiwan	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.
A–549–817	731–TA–907	Thailand	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.
C–549–818	701–TA–408	Thailand	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.
A–823–811	731–TA–908	Ukraine	Certain Hot-Rolled Carbon Steel Flat Products (2nd Review).	Dana Mermelstein, (202) 482–1391.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statue and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: ''*http://ia.ita.doc.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303. *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*'') amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's

conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

Dated: October 19, 2012.

Susan H. Kuhbach,

Director, Office 1, Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–26960 Filed 11–2–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement, Article 1904 NAFTA Panel Reviews; First Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On October 24, 2012, GD Affiliates S. de R.L. de C.V. filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel Review was requested of the U.S. Department of Commerce's final determination regarding Seamless Refined Copper Pipe and Tube from Mexico: Final Results of the November 22, 2010–April 30, 2011 New Shipper Antidumping Duty Administration Review. This determination was published in the **Federal Register** (77 FR 59178), on September 26, 2012. The NAFTA Secretariat has assigned Case Number USA–MEX–2012–1904–03 to this request.

FOR FURTHER INFORMATION CONTACT: Ellen Bohon, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free Trade Agreement (''Agreement'') established a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada, and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on October 24, 2012, requesting a panel review of the determination and order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is November 23, 2012);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 10, 2012); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in panel review and the procedural and substantive defenses raised in the panel review.

Dated: October 31, 2012.

Ellen M. Bohon,

United States Secretary, NAFTA Secretariat.

[FR Doc. 2012–26959 Filed 11–2–12; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC330

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee (SSC) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, November 19, 2012 at 9 a.m.

ADDRESSES: The meeting will be held at the Seaport Hotel, One Seaport Lane, Boston, MA 02210; telephone: (617) 385–4000; fax: (617) 385–4001.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The SSC will meet to consider control rule alternatives for Atlantic sea herring, planning and tasks for 2013 including participation in a Risk Policy Workshop planned for March 2013 and any issues related to SSC procedures. Other business may be discussed.

The public is invited to participate in the SSC meeting via webinar. For online access to the meeting, please reserve your webinar seat now at *https://www.gotomeeting.com/register/987506615.*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for

sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: October 31, 2012.

William D. Chappell,

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

[FR Doc. 2012–26948 Filed 11–2–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 29; OMB Control No. 9000–0048]

Federal Acquisition Regulation; Submission for OMB Review; Authorized Negotiators

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Authorized Negotiators. A notice was published in the **Federal Register** at 77 FR 45613, on August 1, 2012. One comment was received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 5, 2012.

ADDRESSES: Submit comments identified by *Information Collection 9000–0048, Authorized Negotiators,* by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0048, Authorized Negotiators''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0048, Authorized Negotiators'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0048, Authorized Negotiators.

Instructions: Please submit comments only and cite Information Collection 9000–0048, Authorized Negotiators, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501–0650 or via email to *Edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Per FAR 52.215–1(c)(2)(iv), firms offering supplies or services to the Government under negotiated solicitations must provide the names, titles, and telephone numbers of authorized negotiators to assure that discussions are held with authorized individuals. The information collected is referred to before contract negotiations and it becomes part of the official contract file.

B. Analysis of Public Comments

Comment: One respondent submitted a public comment on the extension of the previously approved information collection. The comment indicated a need to correct the FAR cite in paragraph A of the supplementary information.

Response: Adopted.

C. Annual Reporting Burden

Respondents: 68,000.
Responses per Respondent: 8.
Total Responses: 544,000.
Hours per Response: .017.
Total Burden Hours: 9248.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0048, Authorized Negotiator, in all correspondence.

Dated: October 31, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–26975 Filed 11–2–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0133]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Office of the Secretary of Defense is deleting a systems of record notice from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 6, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before December 5, 2012.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard, Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155 or by telephone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 31, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:
DWHS P48

Biographies of OSD, WHS, and JS Officials (August 23, 2004, 69 FR 51813).

Reason:

Based on a recent review of DWHS P48, Biographies of OSD, WHS, and JS Officials, it has been determined that the OSD CIO no longer has any records collected under this system of records notice. Components were notified on September 24, 2012 to identify if such records were being maintained by their Component. No affirmative responses were received therefore this system can now be deleted.

[FR Doc. 2012–26916 Filed 11–2–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Defense Health Board

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50(d), the Department of Defense gives notice that it is renewing the charter for the Defense Health Board (hereinafter referred to as ''the Board''). The Board has been determined to be in the public interest.

The Board is a discretionary federal advisory committee that shall provide the Secretary and Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (hereafter referred to as ''the Under Secretary of Defense''), and the Assistant Secretary of Defense for Health Affairs, independent advice and recommendations on matters pertaining to:

a. DoD healthcare policy and program management;

b. Health research programs;

c. Requirements for the treatment and prevention of disease and injury by DoD;

d. Promotion of health and the delivery of efficient, effective and high quality health care services to DoD beneficiaries; and

e. Other matters of special interest to DoD, as determined by the Secretary of Defense, the Deputy Secretary of Defense or the Under Secretary.

The Board is not established to provide advice on individual DoD procurements, but instead shall be concerned with the DoD healthcare issues facing the Department of Defense in the areas referenced above. No matter shall be assigned to the Board for its consideration that would require any Board member to participate personally and substantially in the conduct of any specific procurement or place him or her in the position of acting as a contracting or procurement official.

The Board shall be composed of not more than 19 members who are appointed by the Secretary of Defense. The members shall be eminent authorities in one or more of the following disciplines: clinical health care, disease and injury prevention, health care delivery and administration, or strategic decision-making in government, industry, or academia.

Board members shall be appointed by the Secretary of Defense and their appointments will be renewed on an annual basis according to DoD policy and procedures. Board members who are not full-time or permanent part-time Federal employees shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109 and serve as special government employees. Each Board member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest. With the exception of travel and per diem for official travel, Board members shall serve without compensation.

The Secretary of Defense may approve the appointment of Board members for one-to-four year terms of service, with annual renewals; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service on the Board. This same term of service limitation also applies to any DoD authorized Subcommittee of the Board.

Appointments will normally be staggered among the Board membership to ensure an orderly turnover in the Board's overall composition on a periodic basis. Regular government officers or employees who participate in DoD's decision-making process for this Board are prohibited from serving on the Board or its subcommittees.

The Secretary of Defense, in consultation with the Under Secretary of Defense, shall appoint the Board's President. The Under Secretary of Defense shall appoint the Vice President. The Under Secretary of Defense, pursuant to DoD policies and procedures, may appoint, as deemed necessary, non-voting experts and consultants, with special expertise, to assist the Board on an ad hoc basis. These experts and consultants, if not full-time or part-time government employees, shall be appointed under the authority of 5 U.S.C. 3109, shall serve as special government employees, shall be appointed on an intermittent basis to work specific Board-related efforts, and shall have no voting rights. Non-voting experts and consultants appointed by the Under Secretary of Defense shall not count toward the Board's total membership, and shall not engage in Board deliberations.

The Department, when necessary, and consistent with the Board's mission and DoD policies/procedures, may establish subcommittees, task groups, and working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Board's sponsor.

Such Subcommittees shall not work independently of the chartered Board, and shall report all of their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the chartered Board; nor can any Subcommittee or its members update or report directly to the DoD or any Federal officers or employees.

All Subcommittee members shall be appointed in the same manner as the Board members; that is, the Secretary of Defense shall appoint Subcommittee members even if the member in question is already a Board member.

Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the Subcommittee of one-to-four years; however, no member shall serve more than two consecutive terms of service on the subcommittee.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as special government employees, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official Board related travel, Subcommittee members shall serve without compensation.

Each Subcommittee member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All Subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

Currently, DoD has approved the following permanent subcommittees to the Defense Health Board.

a. Public Health Subcommittee: This Subcommittee shall be composed of not more than 10 members who are eminent authorities in at least one of the following disciplines: Infectious Disease; Occupational Health/Medicine; Preventive Medicine; Public Health; and Toxicology.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining to improving the overall health of members of the Armed Forces and their families through the evaluation of DoD public health programs and initiatives including education, health promotion and prevention activities, as well as disease and injury prevention research.

b. Health Care Delivery Subcommittee: This Subcommittee shall be composed of not more than nine members who are eminent authorities in at least one of the following disciplines: Health Care Academia; Health Care Finance/Economics; Health Care Policy/Executive Leadership; and Patient Care.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining to health care delivery, to include DoD health care policy and program management, and research.

c. Neurological/Behavioral Health Subcommittee: This Subcommittee shall be composed of not more than 10 members who are eminent authorities in at least one of the following disciplines: Neurology; Post-Traumatic Stress Disorder; Psychiatry; Psychology; and Traumatic Brain Injury.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining to psychological/mental health issues and neurological symptoms or conditions among members of the Armed Forces and their families.

d. Medical Ethics Subcommittee: This Subcommittee shall be composed of not more than five members who are eminent authorities in at least one of the following disciplines: Clergy, DoD leadership, Human Research Protection, attorneys with expertise in medical ethics, and Military Health System beneficiaries. One member must have formal bioethics or medical ethics training or experience.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining to medical ethics.

e. Trauma and Injury Subcommittee: This Subcommittee shall be composed of not more than 10 members who are eminent authorities in at least one of the following disciplines: civilian or military trauma medicine systems.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining to trauma and injury, to include methods for prevention, recognition, clinical management, and treatment. It is the parent Subcommittee of the Committee on Tactical Combat Casualty Care.

f. Committee on Tactical Combat Casualty Care: The Committee on Tactical Combat Casualty Care is a permanent work group of the Trauma and Injury Subcommittee and shall be composed of not more than 31 members who are physicians, nurses, physician assistants, or combat medics with experience in at least one of the following: military trauma medicine or systems; or tactical combat casualty care.

The Subcommittee, when tasked according to DoD policy/procedures, provides advice on matters pertaining in-theater care in the tactical environment.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures.

In addition, the Board's DFO is required to be in attendance at all Board and Subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to DoD policies/procedures, shall attend the entire duration of the Board or Subcommittee meeting. The DFO, or the Alternate DFO, shall call all of the Board's and Subcommittee's meetings; prepare and approve all meeting agendas; adjourn any meeting, when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Board reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Health Board's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Defense Health Board.

All written statements shall be submitted to the Designated Federal Officer for the Defense Health Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Defense Health Board's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Health Board. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: October 31, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–26911 Filed 11–2–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Field Initiated Projects Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education

ACTION: Notice.

Overview Information: National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Field Initiated Projects Program.

Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133G–1 (Research) and 84.133G–2 (Development).

DATES:

Applications Available: November 5, 2012.

Deadline for Transmittal of Applications: January 22, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Field Initiated (FI) Projects program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. Another purpose of the FI Projects program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

NIDRR makes two types of awards under the FI Projects program: Research grants (CFDA 84.133G–1) and development grants (CFDA 84.133G–2).

In carrying out a research activity under an FI Projects research grant, a grantee must identify one or more hypotheses or research questions and, based on the hypotheses or research questions identified, perform an intensive, systematic study directed toward producing (1) new scientific knowledge, or (2) better understanding of the subject, problem studied, or body of knowledge.

In carrying out a development activity under an FI Projects development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods, including designing and developing prototypes and processes, that are beneficial to the target population. ''Target population'' means the group of individuals, organizations, or other entities expected to be affected by the project. There may be more than one target population because a project may affect those who receive services, provide services, or administer services.

Note: This program is in concert with NIDRR's currently approved long-range plan (the Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research. The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to (1) improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training methods to facilitate the advancement of knowledge and understanding of the unique needs of individuals with disabilities from traditionally underserved populations; (3) determine the best strategies and programs to improve rehabilitation outcomes for individuals with disabilities from underserved populations; (4) identify research gaps; (5) identify mechanisms for integrating research and practice; and (6) disseminate findings.

Priority: Under this competition we are particularly interested in applications that address the following priority:

Invitational Priority: For FY 2013, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications. The priority is:

Projects that support research or development activities related to the development and application of cloud computing for people with disabilities. Cloud computing offers the potential to provide accommodations that enable people with disabilities to access information technology more readily, support improved management and use of data to improve services for people with disabilities, provide new opportunities to communicate, and help people with disabilities and their families manage important data, such as application forms and records for services they receive. NIDRR seeks to secure these and other potential benefits of this emerging technology for people with disabilities.

Program Authority: 29 U.S.C. 764.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $106,817,000 for NIDRR for FY 2013, of which we intend to use an estimated $4,000,000 for the FI Projects competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $195,000 to $200,000.

Estimated Average Size of Awards: $200,000.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62 and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the

Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133G–1 or 84.133G–2.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative (Part III).

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

Applicants should consult NIDRR's long-range plan when preparing their applications. The Plan is organized around the following research domains and arenas: (1) Community living and participation; (2) health and function; (3) technology; (4) employment; and (5) demographics. Applicants should clearly indicate, for each application, the domain or arena under which they are applying.

3. *Submission Dates and Times:*

Applications Available: November 5, 2012.

Deadline for Transmittal of Applications: January 22, 2013.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CRR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from DUN and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/aapplicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the FI Projects program, CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit

your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the FI Projects program—CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development)—at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed

statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development)), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 350.54 and 350.55 and are listed in the application package.

Note: Different selection criteria are used for FI Projects research grants (84.133G–1) and development grants (84.133G–2). Applicants must clearly indicate in the application whether they are applying for a research grant (84.133G–1) or a development grant (84.133G–2) and must address the selection criteria relevant for their grant type. Without exception, NIDRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows:

The Secretary is interested in outcomes-oriented research or development projects that use rigorous scientific methodologies. To address this interest, applicants are encouraged to articulate goals, objectives, and expected outcomes for the proposed research or development activities. Proposals should describe how results and planned outputs are expected to contribute to advances in knowledge, improvements in policy and practice, and public benefits for individuals with disabilities. Applicants should propose projects that are designed to be consistent with these goals. We encourage applicants to include in their applications a description of how results will measure progress towards achievement of anticipated outcomes (including a discussion of measures of effectiveness), the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies. Submission of the information identified in this section is voluntary, except where required by the selection criteria listed in the application package.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved

application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

Note: NIDRR will provide information by letter to grantees on how and when to submit the performance report.

4. *Performance Measures:* NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices) developed and/or tested with NIDRR funding that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award that are based on NIDRR-funded research and development activities and are in refereed journals.
- The percentage of new grants that assess the effectiveness of interventions, programs, and devices using rigorous and appropriate methods.

Each grantee must annually report on its performance through NIDRR's Annual Performance Report (APR) form. NIDRR uses APR information submitted by grantees to assess progress on these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Lynn Medley or Marlene Spencer as follows:

Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7338 or by email: *Lynn.Medley@ed.gov.*

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *Marlene.Spencer@ed.gov.*

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 29, 2012.

Michael Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2012–26929 Filed 11–2–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects—National Data and Statistical Center for the Burn Model Systems

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Disability and Rehabilitation Research Projects (DRRPs)—National Data and Statistical Center for the Burn Model Systems.

Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133A–6.

DATES:

Applications Available: November 5, 2012.

Date of Pre-Application Meeting: November 26, 2012.

Deadline for Transmittal of Applications: January 22, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Disability and Rehabilitation Research Projects (DRRPs)

The purpose of DRRPs, which are funded under NIDRR's Disability and

Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, training, demonstration, development, dissemination, utilization, and technical assistance. Additional information on DRRPs can be found at: *www.ed.gov/rschstat/research/pubs/res-program.* This competition is to establish a national datacenter to house the data collected by NIDRR's Burn Model System grantees. This Center is responsible for working with these grantees to establish protocols and quality control mechanisms for support of grantee data collection efforts.

Priority: NIDRR has established two absolute priorities for this competition.

Absolute Priorities: The priority titled ''General Disability and Rehabilitation Research Projects (DRRP) Requirements'', which applies to all DRRP competitions, is from the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472). The priority titled ''National Data and Statistical Center for the Burn Model Systems'' is from the notice of final priority for this program, published in the **Federal Register** on June 7, 2012 (77 FR 33729).

Note: On June 7, 2012, we also published a notice in the **Federal Register** (77 FR 33725) inviting applications for the National Data and Statistical Center for the Burn Model Systems. Because none of the applications we received for this priority were of sufficiently high quality, NIDRR is recompeting this priority. NIDRR is seeking applications that address all elements of the priority.

For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet these priorities.

These priorities are:

General Disability and Rehabilitation Research Projects (DRRP) Requirements and National Data and Statistical Center for the Burn Model Systems.

Note: The full text of these priorities is included in the pertinent notice of final priority or priorities published in the **Federal Register** and in the application package for this competition.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350. (d) The notice of final priorities for the Disability and Rehabilitation Research Projects and Centers program, published in the **Federal Register** on April 28, 2006 (71 FR 25472). (e) The notice of final priority for this program, published in the **Federal Register** on June 7, 2012 (77 FR 33729).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $106,817,000 for NIDRR for FY 2013, of which we intend to use an estimated $350,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Maximum Award: We will reject any application that proposes a budget exceeding $350,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62(a) and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133A–6.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 100 pages, using the following standards:

A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative section (Part III).

The application package will provide instructions for completing all

components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

3. *Submission Dates and Times:*

Applications Available: November 5, 2012.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on November 26, 2012. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or for an individual consultation, contact either Lynn Medley or Marlene Spencer as follows:

Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–7338 or by email: *lynn.medley@ed.gov.*

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

Deadline for Transmittal of Applications: January 22, 2013.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact one of the individuals listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR and SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Data and Statistical Center for the Burn Model Systems, CFDA number 84.133A–6, must be submitted electronically using the *Governmentwide Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National BMS Data Center competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline

date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (a Department-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140 PCP, Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.133A–6)
LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.133A–6)
550 12th Street SW., Room 7041,
Potomac Center Plaza, Washington,
DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Lynn Medley or Marlene Spencer as follows:

Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7338 or by email: *lynn.medley@ed.gov.*

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW.,

room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 29, 2012.

Michael Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2012–26939 Filed 11–2–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 12–101–LNG]

Gulf LNG Liquefaction Company, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 20-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on August 31, 2012, by Gulf LNG Liquefaction Company, LLC (GLLC), requesting long-term, multi-contract authorization to export up to 11.5 million tons per annum (mtpa) of domestically produced liquefied natural gas (LNG), the equivalent of approximately 547.5 billion cubic feet (Bcf) of natural gas per year (Bcf/yr), or 1.5 Bcf per day (Bcf/d), over a 20-year period, commencing on the earlier of the date of first export or ten years from the date the requested authorization is granted. The LNG would be exported from the Gulf LNG Energy, LLC Terminal (Gulf LNG Terminal), a facility located in Pascagoula, Mississippi, to any country that has or in the future develops the capacity to import LNG via ocean-going carrier and with which the United States does not prohibit trade but also does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas. GLLC is requesting this authorization both on its own behalf and as agent for other parties who themselves hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., eastern time, January 4, 2013.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Lisa Tracy, U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–4523

Edward Myers, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–3397

SUPPLEMENTARY INFORMATION:

Background

GLLC is a Delaware limited liability company with its principal place of business in Birmingham, Alabama. GLLC is a wholly owned subsidiary of Gulf LNG Holdings Group, LLC (Gulf LNG Holdings). GLLC is a wholly owned subsidiary of Gulf LNG Holdings Group, LLC (Gulf LNG Holding). Kinder Morgan, Inc., indirectly through its wholly-owned subsidiary, Southern Gulf LNG Company, LLC, owns a fifty percent interest in Gulf LNG Holdings. GE Energy Financial Services, a unit of GE, directly and indirectly owns a forty-six percent interest in Gulf LNG Holdings. Other investors identified in the Application own the remaining four percent interest of Gulf LNG Holdings.

GLLC states that this application represents the second part of a two-part application request. On May 2, 2012, in Docket No. 12–47–LNG, GLLC filed with DOE/FE a separate application for long-term, multi-contract authorization to export up to 11.5 mtpa of domestically produced LNG for 25 years (equivalent to approximately 547.5 Bcf/yr, or 1.5 Bcf/d) to any country with which the United States currently has, or in the future may enter into, an FTA requiring national treatment for trade in natural gas, and which has or in the future develops the capacity to import LNG via ocean-going carrier. DOE/FE granted this authorization on June 15, 2012, in Order No. 3104.

On October 28, 2005, Gulf LNG Energy, LLC, a subsidiary of Gulf LNG Holdings, filed an application with the Federal Energy Regulatory Commission (FERC) under Section 3 of the Natural Gas Act requesting authority to site, construct and operate an LNG import terminal in Jackson County, Mississippi. Concurrently Gulf LNG Pipeline, LLC filed an application under Section 7(c) of the Natural Gas Act to construct, own and operate an approximately five mile-long pipeline from the proposed LNG terminal. FERC authorized the construction of the terminal and pipeline (collectively, the ''Gulf LNG Terminal'') on February 16, 2007. The Gulf LNG Terminal commenced service on October 1, 2011.

GLLC plans to build natural gas processing and liquefaction facilities to receive and liquefy domestic natural gas at the Gulf LNG Terminal (the ''Project''). The Project facilities will be integrated into the existing terminal

facilities which currently consist of a single marine berth, two storage tanks, vaporization units and associated piping and control equipment, associated utilities, infrastructure and support systems; and a 5.02 mile send-out pipeline extending to several interstate pipelines. The Gulf LNG Terminal has a peak sendout capacity of 1.5 Bcf/d. GLLC states that the new facilities planned for the project will include natural gas pre-treatment, liquefaction, and export facilities with a capacity of up to 11.5 mtpa of LNG, plus enhancements to the existing equipment and additional utilities. GLLC states that the additional facilities would permit gas to be received by pipeline at the Gulf LNG Terminal, where it would be liquefied and then loaded from the Gulf LNG Terminal's storage tanks onto vessels berthed at the existing marine facility. GLLC also states that once the project is operational, it will have the capability to: (1) Liquefy domestic natural gas for export, or (2) import LNG and either re-gasify the imported LNG for delivery to domestic markets or export the LNG to foreign markets. GLLC does not expect the Export Project to result in vessel traffic to or from the facility in excess of that currently authorized for the existing import facility.

GLLC acknowledges that the proposed facilities would be subject to review and approval by the FERC. Upon completion of initial facility planning and design, GLLC will request that the Commission initiate the mandatory pre-filing review process for the Export Project. GLLC states it anticipates that this request will be made before the end of 2013.

Current Application

In the instant Application, GLLC seeks long-term, multi-contract authorization to export up to 11.5 mtpa of domestically produced natural gas, as LNG (equivalent to approximately 547.5 Bcf/yr, or 1.5 Bcf/d of natural gas), for a period of 20 years beginning on the earlier of the date of first export or ten years from the date the authorization is granted by DOE/FE. GLLC requests that such long-term authorization provide for export from the Gulf LNG Terminal to any country (i) with which the United States does not have an FTA requiring national treatment for trade in natural gas, (ii) which has developed or in the future develops the capacity to import LNG via ocean-going carrier, and (iii) with which trade is not prohibited by U.S. law or policy.

GLLC requests authorization to export LNG on its own behalf and as agent for other parties who themselves hold title to the LNG at the time of export. GLLC states that to ensure that all exports are permitted and lawful under U.S. laws and policies, it will comply with all DOE requirements for an exporter or agent.

GLLC asserts that in recent orders granting long-term authorization to export LNG to FTA countries, DOE found that the applicants were not required to submit, with their applications, transaction-specific information, as specified in section 509.202(b) of DOE's regulations. GLLC requests that DOE make the same finding for this Application.

GLLC seeks authorization to export natural gas available in the integrated U.S. natural gas pipeline system. GLLC notes that due to the Gulf LNG Terminal's direct access to multiple major interstate pipelines and indirect access to the national gas pipeline grid, the Project's customers will have a wide variety of stable and economical supply options from which to choose.

Public Interest Considerations

GLLC states that DOE/FE's primary consideration is whether the exports will be transacted on a market-driven, competitive basis. GLLC states that this is the case here: The owners of gas or the holders of capacity at the Export Project facilities will make decisions whether to export gas based on then prevailing market conditions in the domestic market and the destination markets. GLLC states that with export capability at the Gulf LNG Terminal, both exports and imports will be subject to the ultimate market test: Those with capacity at the terminal will decide whether the market warrants imports of LNG, exports of LNG or neither. GLLC states that while its transactions will be competitive, market-based transactions consistent with DOE/FE's public interest policy, it is aware of the ongoing debate over whether LNG exports will cause price increases in the domestic market that run counter to the public interest.

In order to address such concerns, GLLC commissioned Navigant Consulting, Inc. (Navigant) to undertake a study of the potential impact to domestic supply and prices that might result from LNG exports. The Navigant Market Analysis Study, attached to the Application as Appendix A, considered the possible impacts that the Export Project might have on natural gas supply and pricing. Navigant's analysis also assumed the existence of additional LNG exports from other projects as well as an aggressive increase in natural gas demand due to the use of natural gas in transportation vehicles. GLCC states that even in the High Demand Base Case, which assumes 6.2 Bcf/d of LNG exports in addition to GLLC's requested 1.5 Bcf/d and makes aggressive assumptions about natural gas vehicle demand, the impact on domestic prices over the term of the requested authorization is minimal.

GLLC states that Navigant concludes that LNG exports will actually encourage a more reliable and stable domestic natural gas market with less volatility, which will benefit all market participants. By providing an additional outlet for supply, LNG exports will help to level the peaks and valleys historically common to the natural gas industry. GLLC states that in other words, LNG exports will reduce the price volatility that can lead producers to curtail production and reduce investment when prices are declining, which, in turn, leads to prices to subsequently spike when production falls too low. GLLC also states that its Export Project will not rely on any particular source of gas, but rather, through the nationally integrated gas pipeline grid, and will be able to access gas supplies from a variety of producing basins within the U.S.

To further support its Application, GLLC states that it also commissioned Navigant Economics to perform an Economic Impact Assessment Study. Highlighted in Appendix B of the Application, GLLC states that the study shows that the GLLC Export Project will create material economic benefits in the Southeast region where the Export Project is to be located. GLLC further states that during both the construction and operation phases, the GLLC Export Project will contribute to and stimulate the local and regional economy. GLLC maintains that because development of the GLLC Export Project will take place wholly within a brownfield development area, the environmental impacts of the project will be minimal.

Finally, GLLC states that the Application demonstrates that exports of LNG from the Gulf LNG Terminal will be in the public interest for the following reasons:

First, exports from the GLLC Export Project will involve the sale of gas in volumes and at prices responsive to market needs.

Second, GLLC states that there are more than adequate gas reserves to supply the U.S. market, even with exports from GGLC, exports from other projects in the amount of an additional 6.2 Bcf/d and with aggressive growth in demand for natural gas vehicles.

Third, GLLC states that natural gas to be exported from the GLLC Export Project may be sourced from a variety of conventional and unconventional

supply basins by using the highly efficient and integrated U.S. natural pipeline grid.

Fourth, GLLC states that the impact of LNG exports on the price of domestic gas will be minimal, and will be expected to average less than 8 percent.

Fifth, GLLC states that the Export Project will create economic benefits to the local and regional economies in the Southeast region surrounding the project location in Jackson County, Mississippi, as well as the national economy.

Sixth, GLLC contends that LNG exports will lead to less volatility in domestic natural gas markets and increased stability that benefits producers and consumers by levelizing demand.

Seventh, GLLC states that LNG exports will benefit the United States by contributing toward a decreased trade deficit and advancing U.S. interests abroad.

Eighth, GLLC maintains that the Export Project will have relatively small environmental impacts because the construction will take place wholly within a brownfield development area and displace environmentally damaging fuels in those countries.

Further details can be found in the Application, which has been posted at *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Environmental Impact

GLLC states that the Export Project will have minimal environmental impacts. GLLC states that although the export facilities will be constructed on property adjacent to the existing import facilities, the project will be located wholly in a brownfield development area. GLLC anticipates that, given this project scope, the FERC will prepare an Environmental Impact Statement as part of its environmental review. The FERC conducted an environmental review of the Gulf LNG Terminal site in connection with authorization of the siting, construction, and operation of the Terminal in Docket No. CP06–12–000. GLLC also states that any additional environmental impacts associated with construction and operation of the Export Project will be reviewed by the FERC and the applicable state and federal permitting agencies (e.g., United States Army Corps of Engineers, Georgia Department of Natural Resources, and Coast Guard, among others) as part of the permitting process for the Export Project. Consistent with its practice regarding other applications, DOE/FE will be a cooperating agency in the FERC's environmental review.[1] GLLC further states that it will keep DOE/FE apprised of the progress of the environmental review conducted by the FERC.

GLLC states that it currently is in the process of evaluating the necessary infrastructure modifications and additions necessary to accommodate both FTA and non-FTA exports. GLLC states that, following such evaluation, it will initiate the pre-filing review process at the FERC for the proposed Export Project facilities. GLLC requests that DOE/FE issue an order approving the Application, with such approval subject to a satisfactory environmental review by the FERC.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00L (April 29, 2011) and DOE Redelegation Order No. 00–002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application, and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should comment in their responses on these issues, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

[1] DOE/FE Order No. 2961–A, at 27.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov* with FE Docket No. 12–101–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in **ADDRESSES**. The filing must include a reference to FE Docket No. 12–101–LNG; or (3) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in **ADDRESSES**. The filing must include a reference to FE Docket No. 12–101–LNG.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application filed by GLLC is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on October 26, 2012.

Robert F. Corbin,

Director, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

[FR Doc. 2012–26928 Filed 11–2–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–23–000.
Applicants: AEE2, L.L.C., AES ES Westover, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of AEE2, L.L.C., et al.
Filed Date: 10/24/12.
Accession Number: 20121024–5140.
Comments Due: 5 p.m. ET 11/14/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–50–001.
Applicants: California Independent System Operator Corporation.
Description: 2012–10–24 CAISO Flexible Ramping Constraints Compliance Filing to be effective 11/1/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5126.
Comments Due: 5 p.m. ET 11/14/12.

Docket Numbers: ER12–1021–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: 10–24–2012 CDC Compliance Filing to be effective 9/1/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5121.
Comments Due: 5 p.m. ET 11/14/12.

Docket Numbers: ER13–182–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue No. W4–010, Original Service Agreement No. 3405 to be effective 9/24/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5134.
Comments Due: 5 p.m. ET 11/14/12.

Docket Numbers: ER13–183–000.
Applicants: Clear Choice Energy, LLC.
Description: Baseline New to be effective 12/8/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5002.
Comments Due: 5 p.m. ET 11/15/12.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA12–3–000.
Applicants: Canastota Windpower, LLC, Caney River Wind Project, LLC EGP Stillwater Solar, LLC, Enel Stillwater, LLC, Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Rocky Ridge Wind Project, LLC, Chisholm View Wind Project, LLC.
Description: Quarterly Land Acquisition Report of Enel Green Power North America, Inc.
Filed Date: 10/25/12.
Accession Number: 20121025–5030.
Comments Due: 5 p.m. ET 11/15/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 25, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26921 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–24–000.
Applicants: Stony Creek Wind Farm, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, Requests for Waivers of Filing Requirements, Expedited Consideration and Confidential Treatment of Stony Creek Wind Farm, LLC.
Filed Date: 10/25/12.
Accession Number: 20121025–5062.
Comments Due: 5 p.m. ET 11/15/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2233–002.
Applicants: Berry Petroleum Company.
Description: Berry Petroleum Company MBR Compliance Filing to be effective 9/10/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5048.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–70–001.
Applicants: Texas Dispatchable Wind 1, LLC.
Description: Amendment to be effective 10/25/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5064.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–184–000.
Applicants: PacifiCorp.
Description: WAPA–LAP Short Term and Non-Firm Point-to-Point Transmission Service Agreements to be effective 10/22/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5067.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–185–000.
Applicants: ISO New England Inc.
Description: 2013 Administrative Costs Budget Filing to be effective 1/1/2013.
Filed Date: 10/25/12.
Accession Number: 20121025–5068.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–186–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: 10–25–12 BRP to be effective 12/31/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5069.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–188–000.
Applicants: Arizona Public Service Company.
Description: WAPA Bouse Switchyard Construction Agreement, Rate Schedule No. 259 to be effective 12/25/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5073.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–189–000.
Applicants: Cordova Energy Company LLC.
Description: Amendment to MBR Tariff Filing to be effective 10/26/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5084.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–190–000.
Applicants: Power Resources, Ltd.
Description: Amendment MBR Tariff Filing to be effective 10/26/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5086.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–191–000.
Applicants: Saranac Power Partners, L.P.
Description: Amendment to MBR Tariff Filing to be effective 10/26/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5087.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–192–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits 2013 Capital Budget and Capital Budget Quarterly Filing for Third Quarter of 2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5097.
Comments Due: 5 p.m. ET 11/15/12.

Docket Numbers: ER13–194–000.
Applicants: Yuma Cogeneration Associates.
Description: Amendment MBR Tariff Filing to be effective 10/26/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5101.
Comments Due: 5 p.m. ET 11/15/12.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA12–3–000.
Applicants: Iberdrola Renewables, LLC, Atlantic Renewable Projects II LLC, Barton Windpower LLC, Big Horn Wind Project LLC, Big Horn II Wind Project LLC, Blue Creek Wind Farm LLC, Buffalo Ridge I LLC, Buffalo Ridge II LLC, Casselman Windpower LLC, Colorado Green Holdings LLC, Dillon Wind LLC, Dry Lake Wind Power, LLC, Dry Lake Wind Power II LLC, Elk River Windfarm, LLC, Elm Creek Wind, LLC, Elm Creek Wind II LLC, Farmers City Wind, LLC, Flat Rock Windpower LLC, Flat Rock Windpower II LLC, Flying Cloud Power Partners, LLC, Groton Wind, LLC, Hardscrabble Wind Power LLC, Hay Canyon Wind LLC, Juniper Canyon Wind Power LLC, Klamath Energy LLC, Klamath Generation LLC, Klondike Wind Power LLC, Klondike Wind Power II LLC, Klondike Wind Power III LLC, Leaning Juniper Wind Power II LLC, Lempster Wind, LLC, Locust Ridge Wind Farm, LLC, Locust Ridge II, LLC, Manzana Wind LLC, MinnDakota Wind LLC, Moraine Wind LLC, Moraine Wind II LLC, Mountain View Power Partners III, LLC, New England Wind, LLC, New Harvest Wind Project LLC, Northern Iowa Windpower II LLC, Pebble Springs Wind LLC, Providence Heights Wind, LLC, Rugby Wind LLC, San Luis Solar LLC, Shiloh I Wind Project, LLC, South Chestnut LLC, Star Point Wind Project LLC, Streator-Cayuga Ridge Wind Power LLC, Trimont Wind I LLC, and Twin Buttes Wind LLC.

Description: Quarterly Land Acquisition Report of Iberdrola Renewables MBR Sellers.

Filed Date: 10/25/12.

Accession Number: 20121025–5096.

Comments Due: 5 p.m. ET 11/15/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 25, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26922 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 26, 2012.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–332–002.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits update to the list of authorized persons designated by the Massachusetts Department of Telecommunications and Energy that may receive Confidential Market Information.
Filed Date: 10/26/12.
Accession Number: 20121026–5108.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER10–2601–001; *ER10–2605–003.*
Applicants: Power Resources, Ltd., Yuma Cogeneration Associates.
Description: Supplement to Notification of Changes in Status of Power Resources, Ltd., et al.
Filed Date: 10/18/12.
Accession Number: 20121018–5154.
Comments Due: 5 p.m. e.t. 11/8/12.

Docket Numbers: ER10–2881–005; ER10–2882–005; ER10–2883–005; ER10–2884–005; ER10–2885–005; ER10–2641–005; ER10–2663–005; ER10–2886–005.
Applicants: Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, Oleander Power Project, Limited Partnership, Southern Company—Florida LLC, Southern Turner Cimarron I, LLC.
Description: Notice of Change in Status of Alabama Power Company, et al.
Filed Date: 10/26/12.
Accession Number: 20121026–5022.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER12–2694–001.
Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.
Description: 20121026 Modification to be effective 12/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5081.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER12–2695–001.
Applicants: Public Service Company of Colorado.
Description: 2012_10_26 PSCo MBR Filing to be effective 12/26/2012.
Filed Date: 10/26/12.

Accession Number: 20121026–5120.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER12–2696–001.
Applicants: Southwestern Public Service Company.
Description: 10–26–12_SPS MBR Filing to be effective 12/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5123.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–37–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Schedule 43 Amendment Filing to be effective 6/15/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5081.
Comments Due: 5 p.m. e.t. 11/15/12.

Docket Numbers: ER13–114–001.
Applicants: Wisconsin Public Service Corporation.
Description: Amendment to Notice of Cancellation to be effective 10/1/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5122.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–131–001.
Applicants: Great Bay Energy IV, LLC.
Description: Revised Application for MBR Authorization to be effective 10/16/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5150.
Comments Due: 5 p.m. e.t. 11/15/12.

Docket Numbers: ER13–167–002.
Applicants: Caerus Energy, LLC.
Description: Caerus Energy, LLC Market Based Rate Amendment 2 to be effective 10/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5071.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–197–000.
Applicants: Tucson Electric Power Company.
Description: RS No. 324 Balancing Agreement with Trico Electric to be effective 11/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5152.
Comments Due: 5 p.m. e.t. 11/15/12.

Docket Numbers: ER13–199–000.
Applicants: Mt. Poso Cogeneration Company, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5031.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–200–000.
Applicants: Woodland Biomass Power Ltd.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5036.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–201–000.
Applicants: ANP Funding I, LLC.
Description: Notice of Cancellation to be effective 10/31/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5052.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–202–000.
Applicants: IPA Trading, LLC.
Description: Notice of Cancellation to be effective 10/31/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5055.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–203–000.
Applicants: Black Bear SO, LLC.
Description: Black Bear SO, LLC MBR Tariff to be effective 11/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5069.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–204–000.
Applicants: DTE Stoneman, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5077.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–205–000.
Applicants: DTE Pontiac North, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5080.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–206–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits Notice of Termination of a Facilities Agreement [Rate Schedule No. 605] with Brigham City Light & Power.
Filed Date: 10/26/12.
Accession Number: 20121026–5109.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–207–000.
Applicants: City of Colton, California.
Description: TO Tariff—Baseline Initial TRR & TO Tariff to be effective 1/1/2013.
Filed Date: 10/26/12.
Accession Number: 20121026–5111.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–208–000.
Applicants: DTE Energy Supply, Inc.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5114.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–209–000.
Applicants: DTE River Rouge No.1, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5115.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–210–000.
Applicants: DTE East China, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5117.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–211–000.
Applicants: Haverhill North Coke Company.
Description: Haverhill Notice of Succession to be effective 10/27/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5118.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–212–000.
Applicants: DTE Calvert City, LLC.
Description: Update Seller Category Status to be effective 10/29/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5121.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–213–000.
Applicants: Mehoopany Wind Energy LLC.
Description: MBR Application of Mehoopany Wind Energy LLC to be effective 9/1/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5131.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–214–000.
Applicants: Middletown Cogeneration Company LLC.
Description: Middletown Market-Based Rate Application to be effective 12/1/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5163.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–215–000.
Applicants: Haverhill Cogeneration Company LLC.
Description: Haverhill Cogen MBR Application to be effective 12/1/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5164.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–216–000.
Applicants: South Carolina Electric & Gas Company.
Description: Cancellation of Service Agreement 93 to be effective 10/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5165.
Comments Due: 5 p.m. e.t. 11/16/12.

Docket Numbers: ER13–217–000.
Applicants: Beacom Energy, Inc.
Description: Baseline new to be effective 11/26/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5169.
Comments Due: 5 p.m. e.t. 11/16/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–3–000.
Applicants: MDU Resources Group, Inc.
Description: Application of MDU Resources Group, Inc. under Section 204 of the Federal Power Act for Authorization to Issue up to $150,000,000 of Promissory Notes and Commercial Paper.
Filed Date: 10/26/12.
Accession Number: 20121026–5054.
Comments Due: 5 p.m. e.t. 11/16/12.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA12–3–000.
Applicants: East Coast Power Linden Holding, L.L.C., Cogen Technologies Linden Venture, L.P., Fox Energy Company LLC, Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, and Inland Empire Energy Center, LLC.
Description: Quarterly Land Acquisition Report of the GE Companies.
Filed Date: 10/26/12.
Accession Number: 20121026–5053.
Comments Due: 5 p.m. e.t. 11/16/12.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF13–51–000.
Applicants: Buckeye Florida, Limited Partnership.
Description: Form 556 of Buckeye Florida, Limited Partnership.
Filed Date: 10/24/12.
Accession Number: 20121024–5094.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 26, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26923 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–177–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Removal of Expiring Agreements to be effective 11/24/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5042.
Comments Due: 5 p.m. ET 11/5/12.

Docket Numbers: RP13–178–000.
Applicants: USG Pipeline Company, LLC.
Description: Revised Order No. 587–V NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5119.
Comments Due: 5 p.m. ET 11/5/12.

Docket Numbers: RP13–179–000.
Applicants: B–R Pipeline Company.
Description: Revised Order No. 587–V NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/24/12.
Accession Number: 20121024–5132.
Comments Due: 5 p.m. ET 11/5/12.

Docket Numbers: RP13–180–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Negotiated Rate Filing—EDF Trading to be effective 11/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5000.
Comments Due: 5 p.m. ET 11/6/12.

Docket Numbers: RP13–181–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: KeySpan Nov2012 release to BUG to be effective 11/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5035.
Comments Due: 5 p.m. ET 11/6/12.

Docket Numbers: RP13–182–000.
Applicants: High Island Offshore System, L.L.C.
Description: 2012 Fuel Interim Adjustment to be effective 12/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5074.
Comments Due: 5 p.m. ET 11/6/12.

Docket Numbers: RP13–183–000.
Applicants: Questar Overthrust Pipeline Company.
Description: WIC Non-conforming Contract No. 3719 Amd 6 to be effective 10/22/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5111.
Comments Due: 5 p.m. ET 11/6/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–1080–001.
Applicants: Steuben Gas Storage Company.
Description: Steuben Gas Storage Company—Revisions to Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5102.
Comments Due: 5 p.m. ET 11/6/12.

Docket Numbers: RP12–1104–001.
Applicants: Honeoye Storage Corporation.
Description: Volume No. 1A NAESB Order 587V December 1 2012—Amended to be effective 12/1/2012.
Filed Date: 10/25/12.
Accession Number: 20121025–5056.
Comments Due: 5 p.m. ET 11/6/12.

Docket Numbers: RP12–1121–001.
Applicants: Portland General Electric Company.
Description: Order 587–V Compliance Filing—Corrected Section 25 to be effective 12/1/2012.
Filed Date: 10/26/12.
Accession Number: 20121026–5000.
Comments Due: 5 p.m. ET 11/7/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated October 26, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2012–26906 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–13–000]

ITC Midwest, LLC v. American Transmission Company, LLC; Notice of Complaint

Take notice that on October 24, 2012, pursuant to sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824(e), 825(e), 825(h) (2006), and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 206 (2012), ITC Midwest, LLC (Complainant) filed a formal complaint against American Transmission Company (Respondent), alleging that the Respondent has not complied with the express terms and conditions of (a) the Midwest Independent Transmission System Operator, Inc.'s (MISO) Open Access Transmission Energy and Operating Reserve Markets Tariff; (b) the Agreement of the Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation; and (c) the MISO designations for MVP Project 5 (with the designation 3127), the Dubuque-Cardinal Line as specified in the 2011 MISO Transmission Expansion Plan Appendix A.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 14, 2012.

Dated: October 26, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26924 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7012–000]

Vasquez, Gaddi H.; Notice of Filing

Take notice that on October 25, 2012, Gaddi H. Vasquez submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d (b) (2008), Part 45 of Title 18 of the Code of Federal Regulations, 18 CFR Part 45(c)(2012).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211, § 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 15, 2012.

Dated: October 26, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26925 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as

having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Filed date	Presenter or requester
Prohibited		
1. CP11–72–000	10–16–12	Carl Held.
2. CP11–161–000	10–16–12	Thomas Klee.
3. CP11–161–000	10–16–12	Pancho Antonetti.
4. CP11–161–000	10–16–12	Samantha Antonetti.
5. CP11–161–000	10–16–12	Gian Antonetti.
6. CP11–515–000	10–18–12	Minisink Resident.[1]
7. CP11–515–000	10–22–12	Janice Okeeffe. Kevin M. Okeefe.
8. CP11–515–000	10–22–12	Colin Okeeffe. Lauren Okeeffe.
9. CP11–515–000	10–22–12	Commission Staff.[2]
Exempt		
1. CP08–431–000	10–18–12	Hon. Sherrod Brown.
2. CP11–515–000	10–22–12	U.S. Senators.[3]
3. CP12–495–000	10–25–12	Gary Sorensen.
4. EL11–50–000	10–22–12	Hon. Charles E. Schumer.
5. P–2100–000	10–18–12	Hon. Wally Herger.
6. P–12690–000	10–25–12	Catherine Creese.[4]

[1] Protest card passed out at 10–18–12 Commission Meeting by a Minisink Resident.
[2] Call log for 10–18–12, containing comments of Jessica Briecke and 14 others.
[3] U.S. Senators Charles E. Schumer and Kirsten E. Gillibrand.
[4] Email record.

Dated: October 26, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26920 Filed 11–2–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

Clean Air Act Advisory Committee; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

The charter for the U.S. Environmental Protection Agency's Clean Air Act Advisory committee (CAAAC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The purpose of CAAAC is to provide advice and recommendations to the EPA Administrator on policy issues associated with implementation of the Clean Air Act.

It is determined that CAAAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Pat Childers, CAAAC Designated Federal Officer, U.S. EPA, Mail Code 6102A, 1200 Pennsylvania Ave. NW., Washington DC 20460, or by email, *childers.pat@epa.gov*.

Dated: October 23, 2012.

Elizabeth A. Shaw,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2012–26933 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9748–6]

Proposed CERCLA Settlement Relating to the Digital Equipment Corp. Site a/k/a the PCB Horizon Site in San German, PR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed Administrative Settlement Agreement for Recovery of Past Response Costs (''Agreement'') pursuant to Section 122(h)(1) of CERCLA, with the Puerto Rico Industrial Development Corporation (''Settling Party''). The Settling Party is a potentially

responsible party, pursuant to Section 107(a) of CERCLA, and thus is potentially liable for response costs incurred or to be incurred at or in connection with the Digital Equipment Corp. Superfund Site, a/k/a the PCB Horizon Site (''Site''), located in San German, Puerto Rico. Under this Agreement, the Settling Party agrees to pay a total of $50,000 to EPA in two equal payments for past response costs in accordance with the following schedule. Within five business days after the Settling Party receives notice from EPA that this Agreement has been signed by EPA, the Settling Party shall deposit its first payment of $25,000.00 into an interest-bearing escrow account. If the Agreement is made effective after public comment, the Settling Party shall within fifteen (15) days arrange to have the money from the escrow account paid to EPA. The Settling Party shall make its second payment of $25,000.00 to EPA 180 days after the effective date of this Agreement. EPA will consider all comments received and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations that indicate that the proposed Agreement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2 offices, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before December 5, 2012.

ADDRESSES: The Agreement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Digital Equipment Corp. Superfund Site, located in San German, Puerto Rico Index No. CERCLA–02–2012–2021. To request a copy of the Agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Beverly Kolenberg, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: 212–637–3167, email at *kolenberg.beverly@epa.gov.*

Dated: October 16, 2012.

Walter E. Mugdan,

Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2012–26927 Filed 11–2–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, November 8, 2012 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2012–27048 Filed 11–1–12; 4:15 pm]

BILLING CODE 6715–01–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 20, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Charles M. Shea, Wilmette, Illinois, as committee member of the Jerry C. Bradshaw Family Trust—GST Non-Exempt Trust and the Jerry C. Bradshaw Family Trust—GST Exempt Trust; Molly Boed, Wassenaar, Netherlands, as committee member of the Jerry C. Bradshaw Family Trust—GST Non-Exempt Trust and the Jerry C. Bradshaw Family Trust—GST Exempt Trust; Betty J. Bradshaw, Wheaton, Illinois, as committee member of the Jerry C. Bradshaw Family Trust—GST Non-Exempt Trust and the Jerry C. Bradshaw Family Trust—GST Exempt Trust, and JPMorgan Chase Bank, N.A., Naperville, Illinois, as Trustee of the Jerry C. Bradshaw Family Trust—GST Non-Exempt Trust and the Jerry C. Bradshaw Family Trust—GST Exempt Trust;* to retain voting shares of Marseilles Bancorporation, Inc., and thereby indirectly retain voting shares of Marseilles Bank, both of Marseilles, Illinois.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *R. Forest Taylor and Zora Taylor,* both of Morgantown, Kentucky, as the largest individual shareholders, and in concert with their immediate family members (Sue Ann Bond, Louisville, Kentucky; Patty Jo Murphy, Alvaton, Kentucky; Callie Jo Cromer, New Orleans, Louisiana; Amanda Kay Johnson, Spring Hill, Tennessee; Emily Ann Romans, Russellville, Kentucky; Robert Daniel Taylor, and Sharon Kay Taylor, both of Morgantown, Kentucky); to acquire voting shares of Morgantown Deposit Bancorp, Inc., and thereby indirectly acquire voting shares of Morgantown Bank & Trust Company Inc., both in Morgantown, Kentucky.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Gentner Drummond and Wendy Drummond, both of Tulsa, Oklahoma; and Jonathan Drummond,* Stillwater, Oklahoma; as a group acting in concert to acquire voting shares of Cache Holdings, Inc., and thereby indirectly acquire voting shares of Patriot Bank, both in Broken Arrow, Oklahoma.

Board of Governors of the Federal Reserve System, October 31, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–26931 Filed 11–2–12; 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 30, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First State Bancorp of Monticello, Employee Stock Ownership Plan,* Monticello, Illinois; to acquire additional voting shares, for a total of 100 percent of the voting shares of First State Bancorp of Monticello, Inc., Monticello, Illinois, and thereby indirectly acquire voting shares of First State Bank, Monticello, Illinois, and First State Bank of Bloomington, Bloomington, Illinois.

B. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Sound Financial Bancorp, Inc.,* Seattle, Washington; to become a bank holding company through the conversion of Sound Community Bank, Seattle, Washington, from a federal stock savings bank to a state chartered commercial bank.

Board of Governors of the Federal Reserve System, October 31, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–26930 Filed 11–2–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Talmer Bancorp, Inc.,* Troy, Michigan; to acquire 100 percent of the voting shares of First Place Bank, Warren, Ohio, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, October 31, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–26932 Filed 11–2–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027; Docket 2012–0076; Sequence 26]

Federal Acquisition Regulation; Submission for OMB Review; Value Engineering Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Value Engineering Requirements. A notice was published in the **Federal Register** at 77 FR 43076, on July 23, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 5, 2012.

ADDRESSES: Submit comments identified by *Information Collection 9000–0027, Value Engineering Requirements,* by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0027, Value Engineering Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0027,

Value Engineering Requirements'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0027, Value Engineering Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0027, Value Engineering Requirements, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Contract Policy Division, GSA, (202) 501–1448 or email at *Curtis.glover@gsa.gov.*

A. Purpose

Per Federal Acquisition Regulation Part 48, value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Based on adjustments to the number of respondents using Fiscal Year 2011 Federal Procurement Data System Data, the number of responses and the estimated hours, the annual estimated reporting burden increased from the noticed published in the **Federal Register** at 77 FR 43076, on July 23, 2012.

Respondents: 1,934.
Responses per Respondent: 2.
Annual Responses: 3,868.
Hours per Response: 15.
Total Burden Hours: 58,020.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: October 31, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–26949 Filed 11–2–12; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Docket 2012–0001; Sequence 12: OMB Control No. 3090–0228]

Office of Civil Rights; Submission for OMB Review; Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Civil Rights, GSA.

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding nondiscrimination in Federal Financial Assistance Programs. This information is needed to facilitate nondiscrimination in GSA's Federal Financial Assistance Programs, consistent with Federal civil rights laws and regulations that apply to recipients of Federal financial assistance. A notice was published in the **Federal Register** at 77 FR 43083, on July 23, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: December 5, 2012.

FOR FURTHER INFORMATION CONTACT: Evelyn Britton, Director, External Programs Division, Office of Civil Rights, at telephone (202) 603–1645 or via email to *evelyn.britton@gsa.gov.*

ADDRESSES: Submit comments identified by *Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs,* by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. ATTN: Hada Flowers/IC 3090–0228, Nondiscrimination in Federal Financial Assistance Programs.

Instructions: Please submit comments only and cite Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has mission responsibilities related to monitoring and enforcing compliance with Federal civil rights laws and regulations that apply to Federal Financial Assistance programs administered by GSA. Specifically, those laws provide that no person on the ground of race, color, national origin, disability, sex or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA. These mission responsibilities generate the requirement to request and obtain certain data from recipients of Federal surplus property for the purpose of determining compliance, such as the number of individuals, based on race and ethnic origin, of the recipient's eligible and actual serviced population; race and national origin of those denied participation in the recipient's program(s); non-English languages encountered by the recipient's program(s) and how the recipient is addressing meaningful access for individuals that are Limited English Proficient; whether there has been complaints or lawsuits filed against the recipient based on prohibited discrimination and whether there has

been any findings; and whether the recipient's facilities are accessible to qualified individuals with disabilities.

B. Annual Reporting Burden

Respondents: 1200.
Responses per Respondent: 1.
Total Responses: 1200.
Hours per Response: 2.
Total Burden Hours: 2400.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, in all correspondence.

Dated: October 15, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–26950 Filed 11–2–12; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 50; OMB Control No. 9000–0107]

Federal Acquisition Regulation; Submission for OMB Review; Notice of Radioactive Materials

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Notice of Radioactive Materials. A notice was published in the **Federal Register** at 77 FR 45612, on August 1, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 5, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0107, Notice of Radioactive Materials, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0107, Notice of Radioactive Materials''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0107, Notice of Radioactive Materials'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0107, Notice of Radioactive Materials.

Instructions: Please submit comments only and cite Information Collection 9000–0107, Notice of Radioactive Materials, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, Office of Acquisition Policy, GSA, (202) 501–0136 or email *marissa.petrusek@gsa.gov.*

A. Purpose

The clause at FAR 52.223–7, Notice of Radioactive Materials, requires contractors to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropriate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the contractor which will put users of the items on notice as to the hazards involved.

B. Annual Reporting Burden

Respondents: 535.
Responses per Respondent: 5.
Annual Responses: 2,675.
Hours per Response: 1.
Total Burden Hours: 2,675.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

Dated: October 18, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Federal Acquisition Policy Division, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–26953 Filed 11–2–12; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0246; Docket 2012–0001 Sequence 15]

General Services Administration Regulation; Information Collection; Packing List Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for an extension of a information collection requirement for an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the packing list clause.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: January 4, 2013.

ADDRESSES: Submit comments identified by *Information Collection*

3090–0246, Packing List Clause, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0246, Packing List Clause''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0246, Packing List Clause'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 3090–0246, Packing List Clause.

Instructions: Please submit comments only and cite Information Collection 3090–0246, Packing List Clause, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Deborah Eble, Procurement Analyst, GSA Policy Integrity Workforce, by telephone (215) 446–5823 or via email at *Deborah.eble@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

GSAR clause 552.211–77, Packing List, requires a contractor to include a packing list that verifies placement of an order and identifies the items shipped. In addition to information contractors would normally include on packing lists, the identification of cardholder name, telephone number and the term ''Credit Card'' is required.

B. Annual Reporting Burden

Respondents: 4,000.

Responses per Respondent: 233.

Hours per Response: .00833.

Total Burden Hours: 7,757.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0246, Packing List Clause, in all correspondence.

Dated: October 10, 2012.

Joseph A. Neurauter,

Director, Office of Acquisition Policy & Senior Procurement Executive (MV).

[FR Doc. 2012–26955 Filed 11–2–12; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0706]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 and send comments to Kimberly S. Lane, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Program of Cancer Registries Program Evaluation Instrument (NPCR–PEI) (OMB No. 0920–0706, exp. 12/31/2011)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Program of Cancer Registries (NPCR), administered by the Centers for Disease Control and Prevention (CDC), was established to provide funding for states and territories to: (1) Improve existing state-based cancer registries; (2) plan and implement registries where none existed; (3) develop model legislation and regulations for states to enhance the viability of registry operations; (4) set standards for data completeness, timeliness, and quality; (5) provide training for registry personnel; and (6) help establish a computerized reporting and data-processing system. Through the NPCR, CDC currently supports 48 population-based central cancer registries (CCR) in 45 states, one territory, the District of Columbia, and the Pacific Islands. The National Cancer Institute supports the operations of CCR in the five remaining states.

Through the NPCR, CDC provides technical assistance and funding and sets program standards to assure that complete cancer incidence data are available for national and state cancer control and prevention activities and other health planning activities. NPCR-funded CCR are the primary source of cancer surveillance data for *United States Cancer Statistics (USCS),* which CDC has published annually since 2002.

Over a 17-year period, CDC has collected information from NPCR grantees to monitor their performance in meeting the required Program Standards (NPCR Program Evaluation Instrument, OMB No. 0920–0706, exp. 12/31/2011). The NPCR Program Evaluation Instrument (PEI) is a secure, web-based method of collecting information about registry operations, including: Staffing, legislation, administration, reporting completeness, data exchange, data content and format, data quality assurance, data use, collaborative relationships, advanced activities, and survey feedback. Examples of information that can be obtained from various questions include, but are not limited to: (1) The number of filled full-time staff positions by position responsibility, (2) data quality control activities, (3) data collection activities as they relate to achieving NPCR standards for data completeness, (4) electronic reporting, (5) linkage with other databases and (6) whether registry data are used for comprehensive cancer control program planning and evaluation.

The most recent PEI reports were submitted to CDC in 2011. Since 2009, data collection had been conducted on a biennial schedule in odd-numbered years. In late 2011, CDC discontinued the NPCR PEI clearance in preparation for a review of program standards. At this time, CDC seeks OMB approval to reinstate the NPCR PEI clearance. Minor changes to the PEI will be implemented

based on the revised NPCR standards. Additional changes include a reduction in the estimated number of NPCR grantees and an increase in the estimated burden per response.

Information will continue to be collected electronically in odd-numbered years. OMB approval is requested for three years to support data collection in 2013 and 2015. The total number of NPCR grantees is 48. For two cycles of data collection over a three-year period, the annualized number of grantees is 32 (48+48/3=32). The estimated burden per response is 2 hours.

The NPCR–PEI data collection is needed to receive, process, evaluate, aggregate, and disseminate NPCR program information. CDC and the NPCR-funded registries will use the data to monitor progress toward meeting objectives and established program standards; to describe various attributes of the NPCR-funded registries; and to respond to inquiries about the program.

There are no costs to respondents except their time. The estimated annualized burden hours are summarized in the table below.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
NPCR Grantees	PEI	32	1	2	64
Total					64

Dated: October 30, 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. 2012–26899 Filed 11–2–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–12RI]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Information Collection on foreign-born, migrant, refugee and other mobile populations with current or future ties to the United States—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval of a new ''generic clearance'' to better understand the health status, risk factors for disease and other health outcomes among foreign-born, migrant, refugee and other mobile populations with current or future ties to the United States. Insights gained from information collections will assist in the planning, implementation and improvement of disease prevention and control activities.

The information collection for which approval is sought is in accordance with DGMQ's mission to reduce morbidity and mortality among immigrants, refugees, travelers, expatriates, and other globally mobile populations, and to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. This mission is supported by delegated legal authorities.

Section 361 of the Public Health Service (PHS) Act (42 *U.S.C.* 264) authorizes the Secretary of Health and Human Services (HHS) to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries or possessions into the United States and from one state or possession into any other state or possession. These regulations are codified in 42 Code of Federal Regulations (CFR) Parts 70 and 71.

The Secretary of Health and Human Services also has the legal authority to establish regulations outlining the requirements for the medical examination of aliens before they may be admitted into the United States. This authority is provided under Section 212(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)) and Section 325 of the Public Health Service Act. These regulations are codified in 42 CFR Part 34, which establish requirements that determine whether aliens can be admitted into the United States.

Successful implementation of DGMQ's regulatory authority and public health mission requires a variety of information collections with foreign-born, migrant and other mobile populations with current or future ties to the United States. These include but are not limited to: immigrants, international travelers, asylees and refugees, expatriates, border region residents, temporary migrants, and permanent alien residents.

The purpose of the new ''generic clearance'' is to better understand the health status, risk factors for disease and other health outcomes among foreign-born, migrant, refugee and other mobile populations with current or future ties to the United States. Numerous types of information will be collected under the auspices of this generic OMB clearance. These include, but are not limited to, knowledge, attitudes, beliefs, behavioral intentions, practices, behaviors, skills, self-efficacy, and health information needs and sources.

The proposed generic clearance is needed for DGMQ to fulfill its regulatory authority and public health mission, and will allow DGMQ to quickly collect important health-related information from the aforementioned hard-to-reach populations in order to improve routine and emergency public health programs and activities. Prior to each proposed information collection,

DGMQ staff will search the literature and available data sources to ensure that the information of interest has not already been collected or is in the process of being collected. DGMQ will make all reasonable efforts to ensure that the information collection does not overlap with other data collection on immigrant health, such as those authorized under OMB control numbers 1405–0113, 0920–0006, 1615–0029, and 1615–0033.

DGMQ staff proposes that data collection methods for this package will include but are not limited to: Interviews, focus groups, group discussions, and surveys. Depending on the specific purpose, data collection methods may be conducted either in-person, by telephone, on paper, or online. Data may be collected in quantitative and/or qualitative forms. Each proposed information collection will submit the tools used for data collection, including screenshots of web-based surveys, in the statement provided to OMB.

DGMQ estimates that 18,720 respondents will be screened in order for 9485 respondents to be involved in information collection activities each year. We anticipate that the information collections undertaken within this generic will use some combination of 15 surveys, 35 focus groups, and 125 interviews, with some information collections making use of more than one method per collection. It is estimated that information collection activities will total 10,598 burden hours per year.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Foreign-born, migrant, refugee and other mobile populations.	Screeners for Surveys, Focus Groups, Interviews.	18,720	1	10/60
Foreign-born, migrant, refugee and other mobile populations.	Surveys (Approximately 15 surveys/year)	9,000	1	45/60
Foreign-born, migrant, refugee and other mobile populations.	Focus Groups (Approximately 35 focus groups/year).	360	1	1.5
Foreign-born, migrant, refugee and other mobile populations.	Interviews (Approximately 125 interviews/year).	125	1	1.5

Dated: October 30, 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. 2012–26898 Filed 11–2–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Name: Breast and Cervical Cancer Early Detection and Control Advisory Committee.

Times and Dates: 9:00 a.m.–5:00 p.m., December 6, 2012; 9:00 a.m.–12:30 p.m., December 7, 2012.

Place: University Office Park, Columbia Building, 2900 Woodcock Boulevard, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Secretary, Department of Health and Human Services, and the Director, CDC, regarding the early detection and control of breast and cervical cancer. The committee makes recommendations regarding national program goals and objectives; implementation strategies; and program priorities including surveillance, epidemiologic investigations, education and training, information dissemination, professional interactions and collaborations, and policy.

Matters To Be Discussed: The agenda will include discussion on the impact of implementation of the Affordable Care Act on the National Breast and Cervical Cancer Early Detection Program; presentations on outcomes of Care Coordination and Waiver projects; and discussions on how to expand services to impact women beyond our eligible screening population.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jameka R. Blackmon, Executive Secretary, BCCEDCAC, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, Mailstop K–52, Chamblee, Georgia 30314, Telephone: 770–488–4880. The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 26, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–26893 Filed 11–2–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) announce the following meeting of the aforementioned committee:

Times and Dates:
8:00 a.m.–5:45 p.m., December 11, 2012
8:00 a.m.–2:30 p.m., December 12, 2012

Place: The Hilton Rockville, 1750 Rockville Pike, Rockville, Maryland 20852, Telephone: (301) 468–1100.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC and the

Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS and other STDs.

Matters To Be Discussed: Agenda items include: (1) Treatment Cascade—Linkage to Care/Retention in Care—Treatment as Prevention; (2) Ryan White HIV/AIDS Program Client Level Data Update; (3) Viral Hepatitis Action Plan and Implementation Update; (4) Update on Translation of International HIV/AIDS Work Domestically; and (5) CHAC Workgroups Update.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE., Mailstop E–07, Atlanta, Georgia 30333, Telephone: (404) 639–8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 22, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–26478 Filed 11–2–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1984.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Sickle Cell Disease Treatment Demonstration Program—Quality Improvement Data Collection for the Hemoglobinopathy Learning Collaborative (OMB No. 0915–xxxx)–[NEW]

Background: In response to the growing need for resources devoted to sickle cell disease and other hemoglobinopathies, the United States Congress, under Section 712 of the American Jobs Creation Act of 2004 (Pub. L. 108–357), authorized a demonstration program for the prevention and treatment of sickle cell disease (SCD) to be administered through the Bureau of Primary Health Care and the Maternal and Child Health Bureau (MCHB) of the Health Resources and Services Administration (HRSA) in the U.S. Department of Health and Human Services. The program is known as the *Sickle Cell Disease Treatment Demonstration Program* (SCDTDP). The SCDTDP is designed to improve access to services for individuals with sickle cell disease, improve and expand patient and provider education, and improve and expand the continuity and coordination of service delivery for individuals with sickle cell disease and sickle cell trait.

In 2006, the MCHB Genetic Services Branch (GSB) awarded funding to a National Coordinating Center (NCC). The NCC was established to: (1) Collect, coordinate, monitor, and report on best practices and findings regarding the activities of the demonstration program; (2) identify a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease; (3) identify educational materials regarding the prevention and treatment of Sickle Cell Disease; and, (4) prepare a final report on the efficacy of the demonstration program based on evaluation and quality improvement (QI) findings.

To achieve the goals/objectives of the NCC, the National Initiative for Children's Healthcare Quality (NICHQ) and partners are facilitating the Hemoglobinopathy Learning Collaborative (HLC). The HLC includes grantee teams funded from the SCDTDP and the Sickle Cell Disease for Newborn Screening Program (SCDNBSP). The HLC uses a process known as the Model for Improvement, which is a widely used approach to QI in health care settings. The Model for Improvement utilizes a structured process that asks grantee teams, who hereafter will be referred to as improvement teams, to build on small tests of change in their health care setting, while providing monthly reporting on measurements. The proposed QI Data Collection and reporting system is an integral component of this model.

Purpose: The purpose of this QI Data Collection strategy is to implement a system to monitor the progress of MCHB-funded activities in improving care and health outcomes for individuals living with sickle cell disease/trait and meeting the goals of the SCDTDP. Each improvement team will be asked to report on a core set of measures related to quality improvement for hemoglobinopathies. Through an evidence-based process, a bank of QI measures has been developed to assess health care utilization of the SCD population as well as several aspects of the system of care.

The QI Data Collection strategy will provide an effective and efficient mechanism to do the following: (1) Assess the services provided by grantees under the SCDTDP and monitor and drive improvement on quality measures; (2) collect, coordinate, and distribute data, best practices, and findings from network sites; (3) refine a common model protocol regarding the prevention and treatment of sickle cell disease; (4) examine/address barriers that individuals and families living with sickle cell disease face when accessing quality health care and health education; (5) evaluate the grantees' performance in meeting the objectives of the SCDTDP; and, (6) provide HRSA/Congress information on the overall progress of the program.

The proposed data collection and entry forms are as follows: (1) Participant Profile Form, (2) Acute Care Visit Form, and (3) Ambulatory Care Visit Form.

Respondents: Grantees funded by HRSA under the SCDTDP will be the respondents for this data collection activity. Each month, SCDTDP teams will complete up to three data collection and entry forms for 20 patients with SCD or sickle cell trait who were seen in their network that month. The Participant Profile form will collect demographic and basic health information. The Acute Care Visit and Ambulatory Care Visit forms will assess care in acute and ambulatory care settings, respectively.

All information will be collected via medical chart review. Data will be entered directly into a secure web-based data collection tool, Research Electronic Data Capture (REDCap). The data entered into REDCap will be analyzed via a custom measurement generator that will calculate and export the QI

measures for viewing by improvement teams, the NCC, and HRSA.

The annual estimate of burden is as follows:

Instrument	Number of respondents	Responses per respondent*	Total responses	Hours per response	Total burden hours
Participant Profile Form	9	12	108	5.0	540
Acute Care Visit Form	9	12	108	10.0	1080
Ambulatory Care Visit Form	9	12	108	10.0	1080
Total	27		324		2700

* This burden table has been revised from the one published in the 60-day notice to reflect the accurate count of responses per respondent. The number 12 reflects the number of times a respondent will be approached for data collection annually, not the total number of data collection forms completed as was previously reported.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: October 25, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–26935 Filed 11–2–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Methodology for Designation of Frontier and Remote Areas

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Request for public comment on methodology for designation of frontier and remote areas.

SUMMARY: This notice announces a request for public comment on a methodology derived from the Frontier and Remote (FAR) system for designating U.S. frontier areas. This methodology was developed in a collaborative project between the Office of Rural Health Policy (ORHP) in the Health Resources and Services Administration (HRSA); and the Economic Research Service (ERS) in the U.S. Department of Agriculture (USDA). While other agencies of the Department of Health and Human Services (HHS) and the ERS may in the future choose to use the FAR methodology to demarcate the frontier areas of the U.S., there is no requirement that they do so, and they may choose other, alternate methodologies and definitions that best suit their program requirements.

DATES: The public is encouraged to submit written comments on the proposed FAR methodology no later than January 4, 2013. All public comments received will be available for public inspection at HRSA's ORHP on weekdays between 8:30 a.m. and 5:00 p.m.

ADDRESSES: Comments may be submitted via email to *shirsch@hrsa.gov;* mail to Office of Rural Health Policy, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, 5A–05, Rockville, MD 20857; or fax to (301) 443–2803.

FOR FURTHER INFORMATION CONTACT: Questions about this request for public comment can be directed to Steven Hirsch using the contact information listed above.

SUPPLEMENTARY INFORMATION:

Background

ORHP was authorized by Congress in December of 1987 by Section 711 of the Social Security Act [42 U.S.C. 912], and charged with informing and advising HHS on matters affecting rural hospitals and health care and coordinating activities within the Department that relate to rural health care.

Definition of ''rural.'' ORHP considers all nonmetropolitan (nonmetro) counties to be ''rural'' for the purposes of eligibility for its grant programs. Over the years, ORHP has funded development of a rational, data-driven method to designate rural areas inside of metropolitan counties. The Rural-Urban Commuting Area (RUCA) codes are used for determining grant eligibility. The RUCAs, which were developed by Richard Morrill and Gary Hart of the University of Washington and John Cromartie of the USDA's ERS, are based on a sub-county unit, the census tract, permitting a delineation of what constitutes rural areas inside metropolitan areas (see: *http://www.ers.usda.gov/data-products/rural-urban-commuting-area-codes.aspx*). Using data from the Census Bureau, every census tract in the United States is assigned a RUCA code. Codes range from 1 through 10, with 23 sub codes, with code 1 representing the most densely populated urban areas and code 10 representing rural areas with primary commuting to a tract outside an Urbanized Area or Cluster. HRSA believes that the use of RUCAs allows more accurate targeting of resources intended for the rural population. Both ORHP and the Centers for Medicare & Medicaid Services have been using RUCAs for several years to determine programmatic eligibility for rural areas inside of metropolitan counties.

ORHP currently considers all census tracts with RUCA codes 4 through 10 to be rural. While use of the RUCA codes has allowed identification of rural census tracts in metropolitan counties, among the more than 60,000 tracts in the U.S., there are some that are extremely large and where use of RUCA codes alone fails to account for distance to services and sparse population. In response to these concerns, ORHP has designated 132 large area census tracts with RUCA codes 2 or 3 as rural. These tracts are at least 400 square miles in area with a population density of no more than 35 people per square mile. There is also a ZIP code-based version of the RUCA codes that is often used for policy analysis, research, and other purposes (see: *http://depts.washington.edu/uwruca/*).

Need for definition of ''frontier and remote.'' Rural experts, researchers, and others have been calling for an improved way to identify frontier and remote areas. The most commonly used standard to date has been to identify frontier areas as those counties with six or fewer people per square mile. Researchers and policy experts have noted the shortcomings of this approach since it relies solely on population density and uses counties as the unit of measure despite the great disparity in

county size across the country (Ciarlo, 1996). This definition lacks precision. Demand has been growing for a statistically based, nationally consistent definition of ''frontier territory;'' one that is adjustable within a reasonable range, and applicable in different research and policy contexts. The U.S. Congress passed legislation directing the Secretary of HHS to issue regulations that would define the concept of ''Frontier Area'' to be used in the Telehealth programs (Section 330I(r) of the Public Health Service Act, 42 U.S.C. 254c–14(r)). The definition proposed below differs in several respects from the statutory provision governing the Telehealth programs, and thus it will not be applicable to them. As used in this notice, the term ''frontier'' denotes territory characterized by some combination of relatively low population density and high geographic remoteness.

In performing analysis for this project, HRSA intended to create a definition of ''frontier'' based on easily explained concepts of remoteness and population sparseness. HRSA's goal was to create a statistical delineation that will be useful in a wide variety of research and policy contexts and adjustable to the circumstances in which it is applied. We believe that the new geographic taxonomy should prove useful in various research and policy environments, such as rural health care, regional science, demography, rural sociology, and agricultural economics. Two features distinguish the methodology described here from earlier classifications. First, the approach strives for the most accurate measures of distance possible for the smallest units of geography containing population data. Travel time by car to nearby urban areas is calculated for coterminous U.S. territory at the 1x1 kilometer grid level (11.9 million grid cells). Once frontier territory is delimited at the grid level, frontier populations may be aggregated to ZIP code areas, as demonstrated here, or to census tracts, counties, or other useful geographic units. Second, travel time thresholds around urban areas were allowed to vary by urban-area population size. This is desirable because the effect of urban population size on adjacent rural population density is not uniform across all urban sizes. In general, the higher the population of an urbanized area, the greater the population density of any given area nearby.

However, any statistical delineation of this nature is approximate at best, and not suited to all applications. Given the remarkable diversity of settlement patterns and conditions across the contemporary U.S., no definition can account for every variation; and there will be areas included or excluded that would seem to many to be erroneously classified. Therefore, it is necessary to build some degree of flexibility into any definition that will allow users to choose the sub-definition that best suits their purpose. The FAR codes described here allow a range of choices rather than a dichotomy. It will be up to researchers, policymakers, program managers, and policy advocates to ensure that the codes are applied appropriately within specific contexts.

Why is it important to delineate frontier areas?

This project seeks to delineate U.S. territory characterized by very low population density and a high degree of remoteness. Such territory lies at one end of the rural-urban continuum and can be generally viewed as a subset of rural. Job creation, population retention, provision of services such as health care, and access to food, clothing, and other consumer items may require increased efforts in very rural, remote communities. Recent research indicates that the demographic and economic penalties associated with small size and remoteness may be increasing (Partridge, 2008).

Perhaps the fundamental and defining challenges facing frontier communities are the increased per capita costs of providing services. Access to health care is a primary concern motivating this research, but distance and low population densities increase costs of providing all types of social and public services, including schools, police and fire protection, public utilities, and transportation.

Placing Frontier Definitions in a Broader Rural Context

For purposes of this project, ''frontier/remote'' is generally considered a subset of ''rural.'' Of course, there are many definitions of ''rural'' and as much disagreement about them as there is about frontier. Many of the rural taxonomies have multiple categories, some of which can be used and evaluated for their utility in designating frontier/remote areas. Only by defining ''rural'' appropriately can policymakers better understand the implications of certain policy options. The definition of rurality used for one purpose may be inappropriate or inadequate for another (Larson and Hart, 2003).

Most of the rural definitions are based on counties (or their equivalents) as the geographic unit. The most important reasons for using counties include that they: (1) Have much available data; (2) are significant political entities; (3) seldom change boundaries; (4) are traditionally used in many reporting systems and data sets; and (5) are well known to the general public, program managers, researchers, and politicians. However, there are significant problems with county use for many purposes. Counties were created by means of political processes and often are extremely heterogeneous units where aggregate averages of data items end up being unrepresentative of particular places within the county. The rural/urban character within many counties varies dramatically. For instance, Pima County, Arizona, ranges from an urban city of over half a million population near its northeast corner to large remote areas that are extremely sparsely populated along its southwest Mexico/U.S. border. Some large states like Arizona (114,006 square miles—significantly larger than the United Kingdom) have few counties (17 counties), while smaller states like Virginia (42,769 square miles) have many smaller counties (134 counties). Counties vary in size from state to state, with the counties in the west generally much larger than those of the east.

Some definitions go beyond a simple division of counties into rural/urban or metro/nonmetro categories. For instance, the ERS' county-based Urban Influence Codes (UICs) consist of a dozen codes and uses the Office of Management and Budget's definition of metropolitan to divide the nation's urban-like and rural-like counties into two groups. The taxonomy divides the nonmetro counties into 10 categories. The most frontier-like of these categories (i.e., category number 12) could be considered as possible frontier/remote areas, but because it uses a county level analysis, the use of UIC still mischaracterizes some areas within counties that have a high degree of heterogeneity in terms of their degree of being frontier/rural.

''The choice of definition for 'rural' that is used to present demographic and health data can make a substantive difference. For example, whether a disproportionate number of rural residents are elderly depends on how rural is defined. Furthermore, wide variations in health status indicators within non-metro areas will not be apparent unless non-metro data are disaggregated by region, urbanization, proximity to urban areas, or other relevant factors,'' (Hewitt, 1989).

Depending on which categorization is chosen, estimates of the rural population of the U.S. can vary widely. Such differences make reported information vastly different depending

on which definition is employed. Although having ''rural'' definitions that differ in geographic units and criteria is not inherently bad because they may be used for different purposes, this example does demonstrate that they can lead to considerably different populations being designated.

There are some taxonomies that are based on sub-county units. The oldest and most used such geographic taxonomy is that of the U.S. Census Bureau. This utilizes census tract and block group data to define Urbanized Areas and Urban Clusters (described below). The other taxonomy that has gained significant use, especially related to health care, is the RUCAs, which were described above.

There are many different types of ''rural'' and ''frontier'' definitions. Many of these definitions were developed in response to specific needs, but this is not always considered when they are applied to other tasks and different purposes. Deciding which ''rural'' definition to apply to a research or policy analysis topic depends on the purpose at hand, the availability of data, and the appropriate and available taxonomy. All currently available definitions of ''rural'' have their limitations, however the approach described in this notice is intended to provide an empiric approach to the definition of ''frontier'' and ''remote.'' Although it is unlikely that all researchers, analysts, and advocates will ever agree that a single definition of ''rural'' is appropriate in all circumstances, we believe that the approach below may provide interested parties with an additional instrument to gauge the relative rurality of an area.

General Review of the Frontier Concept

The ''frontier'' definition discussed here is a geographical concept meant to delineate areas characterized primarily by remoteness. Applying this particular meaning to the term has increased in recent years, especially in the rural health policy arena, and represents a natural evolution of the term with parallels in other disciplines (as described below). Though a more neutral label, such as ''remote areas'' could easily be substituted, there are benefits to use of the term ''frontier'' for several reasons, one being the use of a shorter, more intuitively appealing descriptive label in research publications and other outlets.

For geographers and others, the term ''frontier'' came to mean not just the line dividing more densely settled and less densely settled territory, but all of the less densely settled territory beyond the line. For example, after the 1980 Census, Frank Popper published a series of academic and news articles in which he applied the term frontier to all sparsely settled territory, as many others were doing, and his research showed that more than half the land area of the U.S. was still frontier. He also claimed that the number of frontier communities was growing because of persistent population loss throughout the nation's heartland (Popper, F.J., 1986). Social scientists and others are increasingly using the term ''frontier'' to describe sparsely settled and geographically remote territory, especially in the U.S. (Duncan, 1993; McGranahan and Beale, 2002). On the federal and state health care front, frontier came to have a general meaning similar to that advocated by Popper (i.e., sparsely settled) with remoteness often emphasized. ''In the mid-1980s, the federal Community Health Center program decided to consider as frontier those counties with a population less than or equal to six persons per square mile located at considerable distance (greater than 60 minutes travel time) to a medical facility able to perform a caesarian section delivery or handle a patient having a cardiac arrest. These latter criteria were forgotten through the years, and programs began to define frontier counties with only a single criteria—population density of six persons per square mile or less,'' (Definition of Frontier section of following web page accessed 4/21/2011: *http://frontierus.org/defining.php*). For a bibliography, demographics, federal programs, and other materials related to frontier, see the National Center for Frontier Communities Web site (*http://frontierus.org/*).

It is clear from an overview of the literature that a fairly small group of factors have a tendency to be included in most of the rural and frontier taxonomies. The Census Bureau used population density (areas of less than two people per square mile) exclusively in its 19th century definition. In contemporary applications, geographic remoteness has been equally emphasized. For instance, McGranahan and Beale (2002) identified a set of frontier counties based on two measures applied to nonmetro counties: Population density (less than 10.1 persons per square mile) and non-adjacency to a metro area as a proxy for remoteness. Many other measures attempt to capture these overlapping but distinct concepts of sparseness and remoteness: population size, distance to urban areas (measured in linear miles, travel miles, or travel time), and degree of urbanization.

Many of the listed factors have a face validity that is quite obvious. For instance, society's perception of rural areas is that they are those places where the population settlement pattern demonstrates low density (i.e., sparsely settled areas).

Geographic Taxonomy Development Concerns

The ORHP/ERS-funded frontier taxonomy project to develop a needed national definition of ''frontier'' and ''remote'' was started in 2008, and included the following components:

(1) Creation of a comprehensive review and inventory of rural and frontier definitions;

(2) Establishment and use of a Technical Advisory Group (five academic experts), conference calls, and other communication and feedback;

(3) Formation and use of a Stakeholder Advisory Group (seven relevant stakeholders), conference calls, and other communications and feedback;

(4) Planning and implementing five regional stakeholder meetings in Washington (District of Columbia), Albuquerque (New Mexico), Omaha (Nebraska), and two in Seattle (Washington)—one of which was more specifically about islands. Meetings were limited to approximately 30 stakeholders. In addition, many other presentations with time for feedback were made (e.g., presentations to the Frontier Partners Group);

(5) Analytical testing of the alternate approaches and results;

(6) Solicitation of feedback regarding approaches and results;

(7) Selection of final methodological approach; and

(8) Analyses using final methodology on 2000 data.

All the components have been completed.

Frontier and Remote (FAR) Methodology

To assist in providing policy-relevant information about conditions in remote areas to policymakers, public officials, researchers, and the general public, ORHP has helped fund the development of a set of ZIP code-level frontier codes by ERS.

The term ''frontier'' is used here to describe territory characterized by some combination of low population size and high geographic remoteness. This pilot FAR version, based on 2000 Census data, provides four separate frontier definitions (Levels), ranging from one that is relatively inclusive (18.0 million people classified as living in frontier areas) to a relatively restrictive version

(4.8 million frontier residents). Different definitions are necessary because rural areas experience degrees of remoteness at differing population levels that affect access to different types of goods and services. A relatively large share of the population live far from cities providing ''high-order'' goods and services, such as advanced medical procedures, major household appliances, regional airport hubs, or professional sports franchises. A much smaller, but still significant, share of U.S. residents finds it hard to access ''low-order'' goods and services, such as grocery stores, gas stations, and basic health care needs. Other types of goods and services—clothing stores, car dealerships, movie theaters—fall somewhere in between.

Calculation of travel times from urban areas was performed for 1x1 kilometer grid cells that also included an estimated 2000 Census population. The use of these small, 1 square kilometer cells, allows more accuracy of measurement than use of larger units, such as census tracts or county boundaries. Once the frontier status for all grid cells was determined, the grid-cell population was aggregated to ZIP code areas. For each of the four frontier Levels, the percentage of a ZIP code area's population classified as frontier was determined. If the majority of the ZIP code areas' population was classified as frontier, that ZIP code area was considered to be a frontier area.

Use of the FAR Methodology and associated data can be used to generate alternative ''frontier'' definitions that might better fit potential user purposes. The FAR codes can also be used in conjunction with other data, such as socioeconomic characteristics of populations, to allow further research analysis or better policy use.

A synopsis of the methods for the new FAR definition is as follows:

(1) The developmental analyses were based on the 2000 Bureau of the Census data;

(2) the conterminous U.S. was divided into 11.9 million 1x1 kilometer squares for analysis;

(3) settlement population aggregations were based on the Census Bureau's designated Urbanized Areas and Urban Clusters based on the 2000 Census data;

(4) travel times were calculated to the nearest edges of Urbanized Areas of 2500 or greater population (travel times were estimated using speed limits and the fastest routes were determined and employed in the analyses);

(5) travel times were calculated to the nearest Urbanized Areas regarding each of the following categories: 50,000 or greater population, 25,000–49,999 population, 10,000–24,999 population, and 2,500–9,999 population;

(6) for each of the 11.9 million grid cells, the information in #4 and #5 above were used to determine frontier status for each of the four levels (described below);

(7) the grid-cell populations (now classified as frontier or non-frontier) were then aggregated to ZIP code areas (ZIP code areas used here come from an ESRI map boundary file reflecting the U.S. Postal Service December 2010 inventory); and

(8) ZIP code areas were assigned as being FAR or not based on whether 50 percent or more of the populations in their cells were designated as FAR (this was performed for each of the four Level criteria—described below).

Not only can the cell data be aggregated and calculated for ZIP code areas, but also the same is being done for census tracts and could be done for other types of geographic units. Note that aggregating the information to larger geographic units (such as counties and states) creates many more units that combine both frontier and non-frontier populations.

The four FAR Levels are defined as follows (travel times are calculated one-way by the fastest paved road route):

(1) Frontier Level 1 areas are 60 minutes or greater from Census Bureau-defined Urban Areas of 50,000 or more population;

(2) Frontier Level 2 areas are 60 minutes or greater from Urban Areas of 50,000 or more people *and* 45 minutes or greater from Urban Areas of 25,000–49,999;

(3) Frontier Level 3 areas are 60 minutes or greater from Urban Areas of 50,000 or more people; 45 minutes or greater from Urban Areas of 25,000–49,999; *and* 30 minutes or greater from Urban Areas of 10,000–24,999; and

(4) Frontier Level 4 areas are 60 minutes or greater from Urban Areas of 50,000 or more people; 45 minutes or greater from Urban Areas of 25,000–49,999; 30 minutes or greater from Urban Areas of 10,000–24,999; *and* 15 minutes or greater from Urban Areas of 2,500–9,999.

FAR Level 1 includes a larger proportion of the population and land area of the U.S than Level 2, which includes more area and population than Level 3, etc. Thus, a ZIP code area that is designated as FAR per the Level 2 definition would need to be located an hour or more travel time from the nearest edge of the closest Urbanized Area (50,000 or more population), and also be located 45 minutes travel time from the nearest edge of an Urban Area of 25,000–49,999 population. For instance, if a ZIP code area was 70 minutes from an Urban Area of 105,000 population and 55 minutes from an Urban Area of 37,000, it would qualify as FAR, but if it was 70 minutes from an Urbanized Area of the same population and 29 minutes from an Urban Area of the same size it would not be designated as FAR. Because the base cell information used for the conterminous states was not available for Alaska and Hawaii, the designation process has to be modified and performed in a more tailored and analyst-intensive fashion. A trial of this method indicates that the final designations for these two states will be for all intents and purposes parallel with those of the other 48 states. The final version of the designations for Alaska and Hawaii will be performed when the 48 states are redone with the Census designation of Urban Areas with 2010 data.

Not all cells and populations are connected to larger places by roads. In many cases, other means of transportation must be utilized (e.g., airplanes, trains, ferries, ships, and boats). This is not only true for the many islands of Hawaii and Alaska, but for many of the other states (e.g., Washington's San Juan Islands in the Puget Sound and Massachusetts' Nantucket Island). There are also towns such as Alaska's Bethel that are not connected to larger towns/cities by roads (i.e., in this case only by air). In these cases (e.g., where air flights are necessary), one hour is added to the road travel time for the area, which is more than enough for an area to be designated as FAR if it can qualify by specific definition level criteria (e.g., to qualify for Level 3, the town would need to have fewer than 10,000 population). For example, Kauai's largest city is Kappa with a 2010 population of 10,699. The entire island clearly qualifies as frontier per FAR Level 1 and Level 2 definitions. Large portions of the island (but not all of it) also qualify per the FAR Level 3 (i.e., a portion of Kauai's population reside greater than 30 minutes travel from a city of over 10,000) and Level 4 definitions. Bethel, Alaska, which is not connected to other cities and towns via road with a 2010 population of 17,013, also qualifies as frontier per the FAR Level 1 and Level 2 definitions but not by the FAR Level 3 and Level 4 definitions (i.e., the city has greater than 10,000 population), though surrounding areas would qualify because of the severe travel barriers (i.e., no roads into town).

Given that different geographical units (e.g., residential ZIP code areas,

census tracts etc.) would aggregate areas differently, a small Gulf island 100 yards off Florida with no connecting bridge might qualify differently using different geographic units. As indicated above, the FAR designations for ZIP code areas were based on a criterion of 50 percent or greater being designated. Data will be made available so that users can modify this criterion for their own specific purposes (for any or all of the level definitions). For example, if federal or state policymakers need to target a program to ZIP code areas where the large preponderance of population was living in frontier/remote locals, a FAR criterion of 80 percent could be applied. The results for the trial application of the FAR Methodology for ZIP codes with 2000 Census data and Urban Area definitions for the lower 48 states and supporting material are available on the web. The available tables are by state, the four definition Levels, and in aggregate for both population and land area. The following FAR development project data and materials are available to users at the two cited web locations:

Web location #1 (Economic Research Service): *http://www.ers.usda.gov/data-products/frontier-and-remote-area-codes.aspx.*

(1) General description of the FAR taxonomy; and

(2) Downloadable files by state and for the whole nation for residential ZIP code areas, and census tracks will be available (the files will include: Identification code; population count; Level 1, 2, 3, and 4 designation status, frontier or not based on majority of population); percentage of population that meet and do not meet frontier criteria for each of the levels; land area designated as frontier/remote by each of the Levels, land area not designated as frontier/remote by each of the Levels, and state where the majority of the population resides; and

(3) Maps.

Web location #2 (Center for Rural Health, University of North Dakota):*http://ruralhealth.und.edu/frontier/.*

(1) Current version of the rural, frontier, and island definition literature review (this review will continue to be updated as new material is obtained and as new definitions are created);

(2) Detailed description of the developmental project (e.g., summary of regional stakeholder meetings and composition of advisory groups);

(3) Description of the purposes and principles upon which the taxonomy was developed;

(4) Detailed description of the analytical methods; and

(5) Sensitivity analyses, comparisons with other designation methods, maps and the like.

The aggregate results are summarized below in Table 1.

TABLE 1—AGGREGATE FAR US 2000 CENSUS RESULTS FOR 48 CONTERMINOUS STATES BY DEFINITION LEVEL CATEGORIES

Level	Population	Percent of population	Percent land area
Level 1	17,960,713	6.5	54.8
Level 2	12,391,300	4.5	48.8
Level 3	8,032,822	2.9	43.0
Level 4	4,782,328	1.7	35.2

The state-level results are available at the FAR section of the ERS Web site (see: *http://www.ers.usda.gov/data-products/frontier-and-remote-area-codes.aspx*). For instance, for the Level 1 FAR sub definition, the states in order from highest to lower for percentages (top 10) of frontier population are: Wyoming (61.2%), Montana (57.7%), North Dakota (48.6%), South Dakota (45.4%), Mississippi (39.6%), Nebraska (35.9%), New Mexico (32.4%), Kansas (25.4%), Vermont (24.9%), and Iowa (23.5%). The similar top 10 for percentage of land area are: Nevada (90.1%), Montana (87.5%), Nebraska (87.2%), South Dakota (86.8%), Wyoming (86.7%), North Dakota (86.5%), New Mexico (82.2%), Utah (81.8%), Kansas (76.9%), and Colorado (74.1%). The similar top 10 by total frontier population are: Texas, Mississippi, Missouri, Minnesota, Kentucky, Michigan, Iowa, Kansas, Nebraska, and Illinois. The lists for the other Levels vary. For example, the top five regarding percentage of the population designated as frontier per the Level 4 sub definition are: North Dakota (26.2%), South Dakota (24.5%), Montana (15.5%), Wyoming (12.9%), and Nebraska (10.3%). Note that Alaska and Hawaii are not included here but will be included in the 2010 version of the FAR codes and will undoubtedly appear on the lists.

HRSA is now seeking public comments on:

(1) The use of a population threshold of 50,000 as the central place from which to measure in defining FAR areas;

(2) The use of 60 minutes travel time from the central place;

(3) Whether the 50 percent population threshold for assigning frontier status to a ZIP code/census tract is the appropriate level for the four standard provided levels;

(4) Other ways of representing urban and rural areas;

(5) Alternatives to using grid cells for measuring remoteness;

(6) Applicability of the FAR methodology to island populations; and

(7) Need for a Census tract and county version of the FAR.

Comments on other aspects of the methodology are welcomed. Commenters are reminded that this is only a proposed methodology, and it is not currently tied to any current federal program or allocation of resources. It is only a tool to better delineate those isolated and remote areas in the country to help researchers and policy makers better understand the unique circumstances of this geographic subset.

Dated: October 26, 2012.

Mary K. Wakefield,

Administrator.

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BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The National Advisory Council will meet by teleconference on Monday, November 19, 2012. The meeting will be open to the public.

DATES: The National Advisory Council will meet Monday, November 19, 2012, from 1:00 p.m. to 3:00 p.m. EST. Please note that the teleconference may close early if the committee has completed its business.

ADDRESSES: The meeting will be held by teleconference. Members of the public who wish to obtain the listen-only call-in number, access code, and other information for the public teleconference, please contact the Office of the National Advisory Council.

For information on services for individuals with disabilities or to request special assistance on the call, contact the Office of the National Advisory Council as soon as possible. See contact information under **FOR FURTHER INFORMATION CONTACT** section below.

To facilitate public participation, members of the public are invited to comment on the issues to be considered by the committee which are available on the FEMA Web site at *http://www.fema.gov/national-exercise-program.* See the additional information provided in the **SUPPLEMENTARY INFORMATION** section. Written comments must be submitted in writing no later than November 14, 2012 and must be identified by Docket ID FEMA–2007–0008 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Deliver/Courier:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 840, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID FEMA–2007–0008 for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Advisory Council, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Alternate Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency (Room 825), 500 C Street SW., Washington, DC 20472–3100, telephone (202) 212–4349, fax (540) 504–2331, and email *FEMA–NAC@fema.dhs.gov.* The National Advisory Council Web site is located at: *http://www.fema.gov/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The National Advisory Council (NAC) advises the Administrator of the Federal Emergency Management Agency (FEMA) on all aspects of emergency management. The NAC incorporates State, local, and Tribal governments, and private sector partners' input in the development and revision of FEMA policies and strategies. FEMA's Office of the NAC serves as the focal point for all NAC coordination.

Agenda: The FEMA National Advisory Council will be meeting by teleconference to discuss the National Exercise Program (NEP) two-year cycle 2013–1014. The Council will discuss potential recommendations on the General Objectives for inclusion in the NEP two-year cycle. The Council will use the specific priorities from the Principal Objectives as guidelines to develop their recommendations for General Objectives. FEMA's National Exercise Division (NED) is responsible for providing exercise guidance and planning support to the Nation's emergency preparedness community. NED works through well-established and expanding partnerships within all levels of government, the private sector, and international communities. Exercise support is administered through the NEP. Information regarding the NEP, the Principal Objectives, and General Objectives can be found in the relative sections at: *http://www.fema.gov/national-exercise-program.*

The Federal Advisory Committee Act requires that notices of meetings of advisory committees be announced in the **Federal Register** 15 days prior to the meeting date. This notice of a teleconference of the NAC is published less than 15 days prior to the teleconference due to closure of Federal government offices during Hurricane Sandy. Since the NAC is meeting via teleconference, there will not be an undue burden on the public to arrange travel to attend this meeting. Notice of this meeting is also provided on the NAC's Web site at *http://www.fema.gov/national-advisory-council.*

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–26964 Filed 11–2–12; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N258; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before December 5, 2012. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by December 5, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and

Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: The Living Desert, Palm Desert, CA; PRT–88568A

The applicant requests a permit to import three jaguars (*Panthera onca*) from Panama for the purpose of enhancement of the survival of the species.

Applicant: Palm Beach Zoo at Dreher Park, West Palm Beach, FL; PRT–84872A

The applicant requests a permit to export biological samples of black rhinos (*Diceros bicornis*) to Kruger National Park, Mpumalanga, South Africa, for the purpose of scientific research.

Applicant: Wild Things Unlimited, Inc., Bozeman, MT; PRT–137719

The applicant requests a renewal of their permit to export salvaged hair samples collected from wolves (*Canis lupus*) in the wild for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: George Harms, Brielle, NJ; PRT–88048A.
Applicant: Ronald Mahavier, Adkins, TX; PRT–88273A.
Applicant: Daniel Ceto, Adkins, TX; PRT–88274A.
Applicant: David Moore, Lake Forest IL; PRT–88316A.
Applicant: Martin Turchin, Palm Beach Gardens, FL; PRT–89047A.
Applicant: Steven Smith, Newport, WA; PRT–89117A.

B. Endangered Marine Mammals and Marine Mammals

Applicant: The Marine Mammal Center, Sausalito, CA; PRT–101713

The applicant requests a permit to take up to 30 southern sea otters (*Enhydra lutris nereis*) per year of all ages and sexes for the purpose of enhancement of the survival of the species by rescue, rehabilitation, and release of stranded animals. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–26943 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–13XL1165AF: HAG13–0040]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office,

Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 20 S., R. 2 W., accepted October 11, 2012
T. 3 N., R. 2 W., accepted October 11, 2012
T. 2 S., R. 5 W., accepted October 11, 2012
T. 21 S., R. 10 E., accepted October 11, 2012
T. 21 S., R. 2 W., accepted October 12, 2012
T. 22 S., R. 3 W., accepted October 12, 2012
T. 20 S., R. 1 W., accepted October 12, 2012

Washington

T. 14 N., R. 11 W., accepted October 11, 2012

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. 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: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2012–26967 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The San Bernardino Meridian, Arizona

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 28, a metes-and-bounds survey in section 28, and the survey of a portion of the Meanders of the Present Left Bank of the Colorado River in section 28, Township 16 South, Range 22 East, accepted October 18, 2012, and officially filed October 22, 2012, for Group 1113, Arizona.

This plat was prepared at the request of the Bureau of Land Management. A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. 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.

Stephen K. Hansen,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2012–26969 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORB00000.L17110000.PH0000.L.X.SS .020H0000.13XL1109AF; HAG13–0011]

Steens Mountain Advisory Council; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the Steens Mountain Advisory Council (SMAC) will meet as indicated below:

DATES: The SMAC will tentatively hold public meetings November 29–30, 2012 in Bend, Oregon; February 21–22, 2013 in Burns, Oregon; May 9–10, 2013 in Diamond, Oregon; August 15–16, 2013 in Frenchglen, Oregon; and November 14–15, 2013 in Burns, Oregon. Public comment periods will be scheduled each day of each meeting. Logistical details and a complete agenda for each session will be available 2–4 weeks prior to the session. Meeting dates, times, locations, and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate necessary business and all who seek to be heard regarding matters before the SMAC.

FOR FURTHER INFORMATION CONTACT: Tara Martinak, Public Affairs Specialist, BLM Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738–9424, (541) 573–4519, or email *tmartina@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 SMAC was initiated August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act (CMPA) of 2000 (Pub. L. 106–399).

The SMAC provides representative counsel and advice to the BLM regarding new and unique approaches to management of the land within the bounds of the Steens Mountain CMPA; recommending cooperative programs and incentives for landscape management that meet human needs, and the maintenance and improvement of the ecological and economic integrity of the area. Tentative agenda items for the upcoming meetings include but are not limited to: Fencing in and around the No Livestock Grazing Area within the Steens Mountain Wilderness; current and potential litigation; the North Steens Transmission Line Project; the Blizten Stewardship contract; projects in the Wildlands Juniper Management Area; wildfire, emergency stabilization and rangeland rehabilitation; wild horses and wild horse management; land exchanges and acquisitions, the Steens Mountain Comprehensive Recreation Plan; the South Steens Allotment Management Plan; the Chimney Allotment Management Plan; and planning future meeting agendas, dates, and locations. Any other matters that may reasonably come before the SMAC may also be addressed. This meeting is open to the public in its entirety. Information to be distributed to the SMAC is requested prior to the start of each meeting.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

Brendan Cain,

Burns District Manager.

[FR Doc. 2012–26891 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000 L16520000.XX0000]

Notice of Meeting, Rio Grande Natural Area Commission

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Rio Grande Natural Area Commission will meet as indicated below.

DATES: The meeting will be held from 10 a.m. to 3 p.m. on December 5, 2012.

ADDRESSES: Hampton Inn Alamosa, 710 Mariposa Street, Alamosa, CO 81101.

FOR FURTHER INFORMATION CONTACT: Denise Adamic, Public Affairs Specialist, BLM Front Range District Office, 3028 East Main St., Cañon City, CO 81212. Phone: (719) 269–8553. Email: *dadamic@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 Rio Grande Natural Area Commission was established in the Rio Grande Natural Area Act (16 U.S.C. 460rrr–2). The nine-member Commission advises the Secretary of the Interior, through the BLM, concerning the preparation and implementation of a management plan for non-Federal land in the Rio Grande Natural Area, as directed by law. Planned agenda topics for this meeting include: Resource concerns and goals to be addressed in the management plan, subcommittee reports on the draft plan and the process for public involvement. The public may offer oral comments at 10:15 a.m. or written statements, which may be submitted for the Commission's consideration. Please send written comments to Denise Adamic at the address above by December 1, 2012. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Commission meeting will be maintained in the San Luis Valley Field Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Meeting minutes and agendas are also available at: *www.blm.gov/co/st/en/fo/slvfo.html.*

Dated: October 17, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–26166 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14300000–ET0000; HAG–12–0285; WAOR–48056]

Public Land Order No. 7805; Extension of Public Land Order No. 6952; WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6952 as corrected by Public Land Order No. 6962, for an additional 20-year period. The extension is necessary to continue protection of the tree improvement and forest research activities of the Peony, Pole Pick, and Frank Burge Seed Orchards, Washington, which would otherwise expire on November 11, 2012.

DATES: *Effective Date:* November 12, 2012.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Bureau of Land Management, Oregon/Washington State Office, 503–808–6155, or Dianne Torpin, United States Forest Service, Pacific Northwest Region, 503–808–2422. 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 either of the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the Peony, Pole Pick, and Frank Burge Seed Orchards in the Okanogan-Wenatchee National Forest. The withdrawal extended by this order will expire on November 11, 2032, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6952 (57 FR 53587 (1992)), as corrected by Public Land Order No. 6962 (58 FR 18163

(1993)), which withdrew 110.00 acres of National Forest System lands from location and entry under the United States mining laws, but not from leasing under the mineral leasing laws, to protect the Peony, Pole Pick, and Frank Burge Seed Orchards, is hereby extended for an additional 20-year period until November 11, 2032.

Dated: October 16, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–26913 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES 12–23]

Final Environmental Impact Statement, Narrows Project, Sanpete County, Utah

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: We, the Bureau of Reclamation, announce the availability of the final environmental impact statement on the Narrows Project, a non-Federal dam and reservoir proposed by the Sanpete Water Conservancy District on Gooseberry Creek in Sanpete County, Utah.

DATES: We will make a decision on the proposed action 30 days or more after the Environmental Protection Agency publishes their Notice of Availability of Weekly Receipt of Environmental Impact Statements in the **Federal Register**. This notice, usually published on Fridays, lists all environmental impact statements filed with the Environmental Protection Agency during the preceding week. After the 30-day public review period, we will complete a Record of Decision which will explain how we arrived at our decision on the proposed action.

ADDRESSES: The final environmental impact statement is available at *www.usbr.gov/uc/envdocs/index.html.* To receive a copy on a compact disc send a request to Mr. Peter Crookston, Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84606. See the **SUPPLEMENTARY INFORMATION** section for locations where copies are available.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Crookston, telephone (801) 379–1152; facsimile (801) 379–1159; email *pcrookston@usbr.gov.* Persons who use a telecommunications device for the deaf 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: Pursuant to the National Environmental Policy Act of 1969, as amended, we have prepared a final environmental impact statement (FEIS) on a proposal under which Sanpete Water Conservancy District (SWCD) would construct, operate, and maintain the Narrows Project—a proposed non-Federal water development and conveyance project funded with a variety of public and private financing and located in part on Federal lands.

The FEIS Analyzes Four Alternatives

The FEIS describes and analyzes the potential effects of four alternatives. The No Action Alternative represents the conditions of the affected area in Sanpete and Carbon counties if the project is not built. The three action alternatives represent three different versions of the Narrows Project, each differing in the size of the dam and reservoir. Three reservoir sizes were analyzed to enable the U.S. Army Corps of Engineers to determine the Least Environmentally Damaging Practicable Alternative.

Under all three action alternatives, a supplemental water supply would be developed for presently irrigated lands and for municipal and industrial water users in north Sanpete County. The alternatives would require diversion of up to 5,400 acre-feet of water annually from Gooseberry Creek drainage in the Colorado River Basin to northern Sanpete County in the Sevier River drainage basin. The water right used under the action alternatives represents about 6.6 percent of the average annual yield of the Price River above the City of Price. Under all action alternatives, the SWCD's conversion of water from irrigation to municipal and industrial use would occur in stages.

What the Preferred Alternative Does

The preferred alternative is to allow SWCD to build, operate, and maintain the largest dam with a reservoir capacity of 17,000 acre-feet of water stored behind a dam with a height of 120 feet, a crest length of 550 feet, and a reservoir surface area of 604 acres. The reservoir would produce an average yield of 5,136 acre-feet per year. In addition, it would provide an average annual supply of 4,281 acre-feet of water for 15,420 acres of farmland and 855 acre-feet of water for municipal and industrial use. Irrigation is expected to yield a third crop of alfalfa in an area where usually only two crops are harvested.

Previous Publications

The Narrows Project Supplemental Draft Environmental Impact Statement (SDEIS) was issued to the public on March 29, 2010, and we published a Notice of Availability of the SDEIS in the **Federal Register** on March 29, 2010 (75 FR 15458). A 63-day public review and comment period for the SDEIS ended on June 1, 2010. During the public comment period, public hearings were held in both Carbon and Sanpete counties. The FEIS contains responses to all comments received on the SDEIS.

Where to Find Copies of the FEIS

Copies of the FEIS are available at the following locations:

- Main Interior Building, Natural Resources Library, Room 1151, 1849 C Street, NW., Washington, DC 20240–0001
- Bureau of Reclamation, Denver Office Library, Denver Federal Center, Sixth and Kipling, Building 67, Room 167, Denver, Colorado 80225–0007
- Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 7418, Salt Lake City, Utah 84138–1147
- Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84606

Libraries

- College of Eastern Utah, 451 East 400 North, Price, Utah 84501
- Harold B. Lee Library, Brigham Young University, 701 East University Parkway, Provo, Utah 84602–6800
- Manti Public Library, 50 South Main Street, Manti, Utah 84642
- Marriott Library, University of Utah, 295 South 1500 East, Salt Lake City, Utah 84112
- Merrill-Cazier Library, Utah State University, 3000 Old Main Hill, Logan, Utah 84322–3000
- Price Public Library, 159 East Main Street, Price, Utah 84501
- Salt Lake City Public Library, 210 East 400 South, Salt Lake City, Utah 84111
- Snow College, 150 East College Avenue, Ephraim, Utah 84627
- Stewart Library, Weber State University, 2901 University Circle, Ogden, Utah 84408

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any communication, 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 communication to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 28, 2012.

Brent Rhees,

Deputy Regional Director—Upper Colorado Region, Bureau of Reclamation.

[FR Doc. 2012–26912 Filed 11–2–12; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–822]

Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 18) granting a motion of respondents to terminate the investigation in its entirety. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. 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 January 10, 2012, based on a complaint filed by Freescale Semiconductor, Inc. of Austin, Texas (''Freescale''), alleging 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 integrated circuits, chipsets, and products containing same including televisions by reason of infringement of certain claims of U.S. Patent No. 5,467,455 (''the '455 patent''). 77 FR 1505–6 (Jan. 10, 2012). The Notice of Investigation named the following as respondents: MediaTek Inc. of Hsinchu City, Taiwan; Zoran Corporation of Sunnyvale, California; Vizio, Inc. of Irvine, California; Sanyo Electric Co., Ltd. of Osaka, Japan; Sanyo North America Corporation of San Diego, California; Sanyo Manufacturing Corporation of Forrest City, Arizona; TPV Technology Limited of Hong Kong, China; TPV International (USA) Inc. of Austin, Texas; Top Victory Electronics (Taiwan) Co., of Zhounghe City, Taiwan; Top Victory Electronics (Fujian) Co., Ltd. of Fuqing City, China; AOC International (USA) Ltd. of Fremont, California (''AOC''); Envision Peripherals, Inc. of Fremont, California; Amtran Technology Co., Ltd. of Xinbei City, Taiwan; and Amtran Logistics, Inc. of Irvine, California. The Office of Unfair Import Investigations was named as a party. The Commission later terminated AOC from the investigation. *See* Notice (Mar. 21, 2012).

On July 20, 2012, several of the respondents collectively filed a motion to stay the procedural schedule pending the completion of *Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions,* Inv. No. 337–TA–786. On August 6, 2012, the ALJ issued Order No. 17, granting the motion. On September 12, 2012, the Commission terminated Inv. No. 337–TA–786, finding no violation and further finding that the asserted claims of the '455 patent are invalid as obvious. *See* 77 *FR* 57589–90 (Sept. 18, 2012).

On September 18, 2012, respondents filed a motion to terminate this investigation pursuant to Commission Rule 210.21(a). Respondents argued that no further proceedings are appropriate or necessary in light of the Commission's finding of invalidity concerning the '455 patent in Inv. No. 337–TA–786. The motion indicated that the Commission investigative attorney did not oppose. On September 27, 2012, Freescale filed a response stating that the Commission's determination in Inv. No. 337–TA–786 that the '455 is invalid renders its claims in this investigation moot and, as such, it did not oppose the motion to terminate.

On September 28, 2012, the ALJ issued the subject ID, granting respondents' motion to terminate for good cause pursuant to section 210.21(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(a)). No petitions for review of the subject ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: October 31, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–26896 Filed 11–2–12; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of cancellation and rescheduling of meeting.

Changes in the Meeting: Due to emergency weather and travel conditions, the meeting of the Advisory Committee on Rules of Civil Procedure scheduled for Thursday, November 1 and Friday, November 2, 2012 has been rescheduled to take place on Friday, November 2, 2012 at 11:00 a.m. in the Mecham Conference Center at the Administrative Office of the U.S. Courts, Washington, DC. Certain committee members will participate by videoconference. All members of the public who are unable to come to the Mecham Center may contact the Rules Committee Support Office to make arrangements to attend the meeting via teleconference. The meeting was previously announced in the **Federal Register** at 77 FR 12077, February 28, 2012.

ADDRESSES: The Mecham Conference Center is located on the first floor of the Administrative Office of the U.S. Courts at 1 Columbus Circle NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Chief Rules Officer,

Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: October 31, 2012.

Jonathan C. Rose,

Chief Rules Officer.

[FR Doc. 2012–26945 Filed 11–1–12; 11:15 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On October 26, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Central District of California in the lawsuit entitled *United States et al.* v. *Seachrome Corp. et al.,* Civil Action No. 2:02-cv-4565 ABC (RCx).

In *Seachrome,* the United States of America (''United States''), on behalf of the Administrator of the United States Environmental Protection Agency (''EPA''), and the California Department of Toxic Substances Control (''Department''), filed a complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, seeking reimbursement of response costs incurred or to be incurred for response actions taken in connection with the release or threatened release of hazardous substances at the South El Monte Operable Unit of the San Gabriel Valley Area 1 Superfund Site in South El Monte, Los Angeles County, California (the ''South El Monte O.U.''). Under the proposed Consent Decree, TDY Industries, LLC; Allegheny Technologies Incorporated; and TDY Holdings, LLC. (collectively ''TDY'') will pay a total of about $1.8 million. In exchange for the payment, the plaintiffs covenant not to sue TDY under Section 106 or 107 of CERCLA with respect to past response costs, the interim remedy for volatile organic compounds, or for perchlorate.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Seachrome Corp. et al.,* D.J. Ref. No. 90–11–2–09121/5. All comments must be submitted no later than thirty (30) 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 Consent Decree 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 Consent Decree 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 $41.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $5.50

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–26908 Filed 11–2–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2012 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.,* thereby enabling employers who make contributions to state unemployment funds to obtain certain credits against their liability for the federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, October 31, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

October 31, 2012

The Honorable Timothy F. Geithner
Secretary of the Treasury Department of the Treasury
1500 Pennsylvania Avenue NW.,
Washington, DC 20220

Dear Secretary Geithner:

Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2012. One is required with respect to the normal federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to the additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

HILDA L. SOLIS
Secretary of Labor

Enclosures

UNITED STATES DEPARTMENT OF LABOR OFFICE OF THE SECRETARY WASHINGTON, DC

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3304(c) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2012, in regard to the unemployment compensation laws of those states which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada

New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 2012.

HILDA L. SOLIS
Secretary of Labor

UNITED STATES DEPARTMENT OF LABOR OFFICE OF THE SECRETARY WASHINGTON, DC

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3303(b)(1) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2012:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code, subject to the limitations of Section 3302(c) of the Code.

Signed at Washington, DC, on October 31, 2012.

Hilda L. Solis
Secretary of Labor

[FR Doc. 2012–26944 Filed 11–2–12; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL CAPITAL PLANNING COMMISSION

Public Comment on the Draft Federal Urban Design Element and the Draft Update to the Federal Preservation and Historic Features Element of the Comprehensive Plan for the National Capital: Federal Elements

AGENCY: National Capital Planning Commission.

ACTION: Notice of 90-day public comment period.

SUMMARY: The National Capital Planning Commission (NCPC), the Planning Commission for the Federal Government within the National Capital Region, intends to release for public comment a draft new Federal Urban Design Element and draft revisions to the Preservation and Historic Features Element of the Comprehensive Plan for the National Capital: Federal Elements. The Comprehensive Plan for the National Capital: Federal Elements addresses matters relating to Federal Properties and Federal Interests in the National Capital Region, and provides a decision-making framework for actions the NCPC takes on specific plans and proposals submitted by Federal government agencies for the NCPC review required by law. The new Federal Urban Design Element provides policies that will guide the design and management of federal buildings and properties so as to enhance their adjacent public realm. It will also provide a framework for federal actions related to enhancing the overall character of the District of Columbia and the National Capital Region. The Federal Preservation and Historic Features Element articulates policies that guide federal actions preserving Washington's historic character and providing better stewardship of historic resources. All interested parties are invited to submit written comment. The draft Federal Urban Design Element and draft revised Federal Preservation and Historic Features Element will be available online at *http://www.ncpc.gov/compplan* not later than November 5, 2012. Printed copies are available upon request from the contact person noted below.

Dates and Time: The public comment period begins on November, 5, 2012 and closes on Monday, February 4, 2012.

ADDRESSES: Mail written comments or hand deliver comments on the draft revisions to Comprehensive Plan Public Comment, National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: David Zaidain at (202) 482–7230 or *david.zaidain@ncpc.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Addresses

You may submit comments electronically at the public comment portal at *http://www.ncpc.gov/compplan.*

Authority: (40 U.S.C. 8721(e)(2)).

Dated: October 31, 2012.

Anne R. Schuyler,
General Counsel.

[FR Doc. 2012–26976 Filed 11–2–12; 8:45 am]

BILLING CODE 7502–02–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meetings: November 2012

TIME AND DATES: All meetings are held at 2:30 p.m.

Thursday, November 1;
Tuesday, November 6;
Wednesday, November 7;
Thursday, November 8;
Tuesday, November 13;

Wednesday, November 14;
Thursday, November 15;
Tuesday, November 20;
Wednesday, November 21;
Tuesday, November 27;
Wednesday, November 28;
Thursday, November 29.

PLACE: Board Agenda Room, No. 11820, 1099 14th St. NW., Washington, DC 20570.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider ''the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition * * * of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto.'' See also 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Lester A. Heltzer, Executive Secretary, (202) 273–1067.

Dated: November 1, 2012.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 2012–27044 Filed 11–1–12; 4:15 pm]

BILLING CODE 7545–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–354, 50–272 and 50–311; NRC–2012–0264]

PSEG Nuclear LLC; Hope Creek Generating Station and Salem Generating Station, Units 1 and 2 Exemption

1.0 Background

PSEG Nuclear LLC (PSEG or the licensee) is the holder of Facility Operating License Nos. NPF–57, DPR–70, and DPR–75, which authorize operation of the Hope Creek Generating Station (HCGS), and Salem Nuclear Generating Station, Units 1 and 2 (Salem), respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of one boiling-water reactor, HCGS, and two pressurized-water reactors, Salem Units 1 and 2, all located in Salem County, New Jersey.

2.0 Request/Action

Part 26 of Title 10 of the Code of Federal Regulations (10 CFR), Subpart I requires licensees to establish a policy for the management of fatigue for all individuals who are subject to the licensee's Fitness-for-Duty program. Regulatory Guide 5.73, ''Fatigue Management for Nuclear Power Plant Personnel,'' endorses the Nuclear Energy Institute (NEI) report, NEI 06–11, Revision 1, ''Managing Personnel Fatigue at Nuclear Power Plants,'' with clarifications, additions and exceptions. The NRC staff has endorsed this guidance for use during a plant emergency.

After exiting the emergency, the licensee is immediately subject to the scheduling requirements of 10 CFR 26.205(c) and the work hour/rest break/minimum day off requirements of 10 CFR 26.205(d). All time worked during the emergency must be tracked to help ensure that individuals are not fatigued on the first day of reinstated work hour controls, per 10 CFR 26.205(b)(3). On June 2, 2010, during a public meeting that was held to discuss lessons-learned from Part 26, Subpart I exemption request submissions and work hour controls during periods of severe winds such as a tropical storm or hurricane, the NRC staff indicated that it found NEI report 06–11, Section 7.5, ''Reset from Deviations,'' to be an acceptable method for resuming work hour controls after the recovery period.

Section 26.205(b) contains the requirement to count work hours and days worked; and (b)(2) was reviewed to understand if the licensee had provided a reasonable opportunity and accommodations for restorative sleep.

Salem and HCGS are located along the eastern shore of the Delaware River and can be impacted by tropical storms and hurricanes during the hurricane season and severe winter precipitation conditions during the months of January and February. By letter dated November 30, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML113350245), as supplemented by letters dated June 4, 2012, and August 30, 2012 (ADAMS Accession Nos. ML12157A061 and ML12244A055, respectively), the licensee requested an exemption from the requirements of 10 CFR 26.205(c) and (d) for meeting work hour rule controls during declarations of severe weather conditions involving tropical storm or hurricane force winds or severe winter precipitation. According to the application, adherence to work hour control requirements could impede the ability to respond to an emergency condition at the site when travel to and from the site may be impeded. Specifically, the exemption would allow Salem and HCGS to sequester sufficient individuals to establish a 12-hour duty schedule comprised of 2 shifts to maintain safe and secure operation during severe weather conditions.

3.0 Discussion

Pursuant to 10 CFR 26.9, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 26, when the exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

3.1 Exemption From Sections 26.205(c) and (d)

Pursuant to 10 CFR 26.207(d), licensees need not meet the requirements of Section 26.205(c) and (d) during declared emergencies, as defined in the licensee's emergency plan. The hurricane-related entry condition for the Salem and HCGS declaration of an Unusual Event is a sustained wind speed greater than 75 miles per hour (mph). The criteria for sequestering essential personnel include travel conditions forecasted to be hazardous for employee commutes to and from the site, such as sustained wind speeds greater than 40 mph, as determined by the National Weather Service. Therefore, the exemption request covers a period which precedes the declared emergency, as individuals need to be sequestered before the severe weather conditions. Similarly, the severe winter weather-related entry conditions are based on forecasts issued by the National Weather Service. The entry conditions include the issuance of a winter storm watch, a blizzard warning or an ice storm warning by the National Weather Service. A winter storm watch is issued by the National Weather Service when there is a potential for heavy snow or significant ice accumulations, usually 24 to 36 hours in advance. A winter storm warning is issued by the National Weather Service when a winter storm is producing or is forecasted to produce heavy snow or significant ice accumulations. Blizzard warnings are issued for winter storms with sustained or frequent winds of 35 mph or higher with considerable falling and/or blowing snow that frequently reduces visibility to ¼ mile or less. An example of the severity of a winter storm that would likely rise to the level of a winter storm warning or watch for the area

surrounding Salem and HCGS is one that is expected to produce an accumulation of 12 inches or more of snow.

3.2 Recovery Exemption Immediately Following a Severe Weather Exemption

The period immediately following the severe weather conditions may require a recovery period. Also, high winds and inadequate road conditions that make travel unsafe, but fall below the threshold of an emergency, could be present for several days. After the severe weather condition has passed, sufficient numbers of personnel may not be able to access the site to relieve the sequestered individuals. An exemption during these conditions is consistent with the intent of the 10 CFR 26.207(d).

3.3 Fatigue Management

Salem and HCGS plan to establish a 12-hour duty schedule comprised of 2 shifts. When personnel are to be sequestered on site, Salem and HCGS will provide arrangements for onsite reliefs and bunking, in order to allow for a sufficient period of restorative sleep for personnel. The relief and bunking areas will be developed prior to sequestering personnel. The NRC staff finds the actions presented to be consistent with the practice of fatigue management.

3.4 Maintenance

The exemption request stated that it would only apply to individuals involved in severe weather response activities that perform duties identified in 10 CFR 26.4(a)(1) through (5). The exemption does not apply to discretionary maintenance activities. The exemption allows the licensee to provide for the use of whatever plant staff and resources are necessary to respond to a plant emergency and ensure that Salem and HCGS achieve and maintain a safe and secure status and can be safely restarted. Suspension of work hour controls is for site preparation activities and those deemed critical for plant and public safety only. This does not include activities required to restart the units following any severe weather condition.

3.5 Returning to Work Hour Controls

Salem and HCGS must return to work hour controls when the plant management determines that adequate personnel are available, and both onsite and relief crews have had sufficient time off before resuming their normal work duties. Upon exiting the exemption, the work hour controls in Section 26.205(c) and (d) apply, and the requirements in Section 26.205(3)(b) must be met.

3.6 Authorized by Law

This exemption would allow Salem and HCGS to sequester sufficient individuals to establish a 12-hour duty schedule comprised of 2 shifts to maintain safe and secure operation during severe weather conditions. As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

3.7 Will Not Endanger Life or Property

Section 26.207 provides an exception to the requirements of 10 CFR 26.205(c) and (d) during declared emergencies, as defined in the licensee's Emergency Response Plan. The proposed exemption expands that allowance for severe weather conditions involving tropical storm or hurricane force winds or severe winter precipitation that may or may not result in the declaration of an emergency. Such an allowance supports sequestering enough required personnel to provide for shift relief, which is necessary to provide a safe and secure status of the units and ensure adequate protection of the health and safety of plant personnel and the public. Therefore, granting this exemption will not endanger life or property.

3.8 Will Not Endanger the Common Defense and Security

The proposed exemption would allow Salem and HCGS to sequester sufficient individuals to establish a 12-hour duty schedule comprised of 2 shifts to maintain safe and secure operation during severe weather conditions. This change to the operation of the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

3.9 In the Public Interest

The proposed exemption is already an exception provided in 10 CFR 26.207, which allows the requirements of 10 CFR 26.205(c) and (d) to not be met during declared emergencies, as defined in the licensee's Emergency Response Plan. The exemption is needed for a unique set of circumstances to (1) ensure that the control of work hours and management of worker fatigue does not impede the ability to use available staff resources to respond to a severe weather threat, and (2) ensure that the plant maintains a safe and secure status. Therefore, the public interest is served by this focus on nuclear safety and security.

4.0 Environmental Consideration

The exemption would authorize exemption from the requirements of 10 CFR 26.205(c) and (d) to allow Salem and HCGS to sequester sufficient individuals to establish a 12-hour duty schedule comprised of 2 shifts to maintain safe and secure operation during severe weather conditions. Using the standard set forth in 10 CFR 50.92 for amendments to operating licenses, the NRC staff has determined that the subject exemption sought involves employment suitability requirements. The NRC has determined that this exemption involves no significant hazards considerations, as discussed below:

(1) The proposed exemption is administrative in nature and is limited to allowing a temporary exception from meeting the requirements of 10 CFR 26.205(c) and (d) during severe weather to ensure that work hour controls do not impede the ability to use available staff resources to respond to a severe weather event. The proposed exemption does not make any physical changes to the facility and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not significantly increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption does not make any changes to the facility and would not create any new accident initiators. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in the margin of safety.

Based on the above, the NRC has concluded that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92, and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or

consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves scheduling requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion, set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment is required to be prepared in connection with the issuance of the exemption.

5.0 Conclusion

The Commission has determined that granting these exemptions is consistent with 10 CFR 26.207(d), ''Plant Emergencies,'' which allows the licensee to not meet the requirements of 10 CFR 26.205(c) and (d) during declared emergencies, as defined in the licensee's emergency plan. The 10 CFR Part 26 Statement of Consideration (73 FR 17148; March 31, 2008) states that, ''Plant emergencies are extraordinary circumstances that may be most effectively addressed through staff augmentation that can only be practically achieved through the use of work hours in excess of the limits of § 26.205(c) and (d).''

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.9, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 26.205(c) and (d) for Salem and HCGS.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th 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. 2012–26934 Filed 11–2–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0259]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request, opportunity to comment, and opportunity to request a hearing, order.

DATES: Comments must be filed by December 5, 2012. A request for a hearing must be filed by January 4, 2013. Any potential party as defined in section 2.4 of Title of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by November 15, 2012.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0259. 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–2012–0259. 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.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0259 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0259.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0259 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 post all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. 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. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended

(the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the 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's 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 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 identification (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 the 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 the NRC's ''Guidance for Electronic Submission,'' which is available on the agency'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's 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 the 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's 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's 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 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.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/*

reading-rm/adams.html. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Exelon Generation Company, LLC, Docket No. 50–374, LaSalle County Station (LSCS), Unit 2, LaSalle County, Illinois

Date of amendment request: October 11, 2012. A publicly available version is in ADAMS under Accession No. ML12285A387.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise Technical Specifications (TS) Section 2.1.1, ''Reactor Core SLs [Safety Limits],'' to reflect an increase of: 1) The two-recirculation loop minimum critical power ratio (MCPR) SL from ≥ 1.11 to ≥ 1.14 and, 2) an increase in the single recirculation loop MCPR SL from ≥ 1.12 to ≥ 1.17. The change is required to support the LSCS, Unit 2, Cycle 15, operation. Cycle 15 will be the first cycle of operation with a mixed core containing the following fuel types: Global Nuclear Fuel (GNF) 2 fuel, and Areva ATRIUM–10 fuel.

Basis for proposed no significant hazards consideration determination: In support of the no significant hazards consideration determination, an evaluation of each of the criteria set forth in 10 CFR 50.92, ''Issuance of Amendment'' is provided below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The [MCPR SL] is defined in the TS Bases Section B 2.1.1 as that limit ''that, in the event of an AOO [Anticipated Operational Occurrence] from the limiting condition of operation, at least 99.9% of the fuel rods in the core would be expected to avoid boiling transition.'' The MCPR SL satisfies the requirements of General Design Criterion 10 of Appendix A to 10 CFR Part 50 regarding acceptable fuel design limits. The MCPR SL is reevaluated for each reload using NRC-approved methodologies. The analyses for LSCS, Unit 2, Cycle 15 have concluded that a two-loop MCPR SL of ≥ 1.14, based on the application of [GNF's] NRC-approved MCPR SL methodology, will ensure that this acceptance criterion is met. For single-loop operation, a MCPR SL of ≥ 1.17 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the LSCS, Unit 2, Core Operating Limits Report (COLR).

The requested TS changes do not involve any plant modifications or operational changes that could affect system reliability or performance, or that could affect the probability of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident mitigating systems, and do not introduce any new accident initiation mechanisms.

Therefore, the changes to the [MCPR SL] do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The GNF2 fuel to be used in Cycle 15 is of a design compatible with the co-resident Areva ATRIUM–10 fuel. Therefore, the introduction of GNF2 fuel into the Cycle 15 core will not create the possibility of a new or different kind of accident. The proposed change does not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR SLs have accounted for the mixed fuel core and have been shown to be acceptable for Cycle 15 operation. Compliance with the criterion for incipient boiling transition continues to be ensured. The core operating limits will continue to be developed using NRC approved methods which also account for the mixed fuel core design. The proposed MCPR SLs or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The MCPR SLs have been evaluated in accordance with GNF's NRC-approved cycle-specific limit methodology to ensure that during normal operation and during AOO's at least 99.9% of the fuel rods in the core are not expected to experience transition boiling. The proposed revised MCPR SLs have accounted for the mixed fuel core and have been shown to be acceptable for Cycle 15 operation. Compliance with the criterion for incipient boiling transition continues to be ensured. On this basis, the implementation of the change to the MCPR SLs does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Ms. Tamra Domeyer, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Acting Branch Chief: Michael I. Dudek.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 30, 2012, as supplemented by letter dated October 3, 2012. Public versions of the May 30 and October 3, 2012, letters are available in ADAMS under Accession Nos. ML121570406 and ML12285A356, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). This amendment request was originally noticed on August 7, 2012 (77 FR 47127); however, it is being re-noticed because the original notice did not provide information about accessing SUNSI information or include the Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation. The proposed amendment would revise Technical Specification Section 2.0, ''Safety Limits.'' Specifically, the proposed amendment would revise two recirculation loop and single recirculation loop Safety Limit Minimum Critical Power Ratio (SLMCPR) values to reflect results of a cycle-specific calculation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Four accidents have been evaluated previously as reflected in the CNS [Cooper Nuclear Station] Updated Safety Analysis Report (USAR). These four accidents are (1) loss-of-coolant, (2) control rod drop, (3) main steam line break, and (4) fuel handling. The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. Changing the SLMCPR values does not increase the probability of an evaluated accident. The change does not require any physical modifications to the plant or any components, nor does it require a change in plant operation. Therefore, no individual precursors of an accident are affected.

The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. This proposed change makes no modification to the design or operation of the systems that are used in mitigation of accidents. Limits have been established, consistent with Nuclear Regulatory Commission (NRC) approved methods, to ensure that fuel performance during normal, transient, and accident conditions is

acceptable. The proposed change to the values of the SLMCPR continues to conservatively establish this safety limit such that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences.

Based on the above, NPPD [Nebraska Public Power District] concludes that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Creation of the possibility of a new or different kind of accident from an accident previously evaluated would require creation of precursors of that accident. New accident precursors may be created by modification of the plant configuration or changes in how the plant is operated. The proposed change does not involve a modification of the plant configuration or in how the plant is operated. The proposed change to the SLMCPR values assures that safety criteria are maintained.

Based on the above, NPPD concludes that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The values of the proposed SLMCPR provides a margin of safety by ensuring that no more than 0.1% of fuel rods are expected to be in boiling transition if the Minimum Critical Power Ratio limit is not violated. The proposed change will ensure the appropriate level of fuel protection is maintained. Additionally, operational limits are established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria are met (i.e., that at least 99.9% of the fuel rods do not experience transition boiling during normal operation as well as anticipated operational occurrences).

Based on the above, NPPD concludes that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Branch Chief: Michael T. Markley.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 2 and 3, Limestone County, Alabama

Date of amendment request: July 30, 2012. A publicly available version is in ADAMS under Accession No. ML12215A005.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would delete the BFN, Units 2 and 3, Technical Specification (TS) Surveillance Requirement 3.5.1.12, which requires the verification of the capability to automatically transfer the power supply from the normal source to the alternate source for each Low-Pressure Coolant Injection (LPCI) subsystem inboard injection valve and each recirculation pump discharge valve on a 24-month frequency. In addition, the licensee is requesting approval for the use of a modified loss-of-coolant accident (LOCA) methodology that will require revising TS 5.6.5.b to include a reference to the modified LOCA methodology. Also, the request revises TSs 3.3.1.1, 5.6.5.a, and 5.6.5.b to include the modified LOCA methodology for the oscilliation power range monitor upscale function period based detection algorithm setpoint limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed Technical Specification change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The 480V RMOV [Reactor Motor-Operational Value] Boards D or E, the equipment they power, or the automatic power transfer feature provided for these boards are not precursors to any accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR). Therefore, the probability of an evaluated accident is not increased by modifying this equipment.

The proposed deletion of a surveillance requirement to verify automatic transfer capability for the power supply to the LPCI inboard injection valves, RHR [residual heat removal] minimum flow valves and recirculation pump discharge valves does not change the number of Emergency Core Cooling System (ECCS) subsystems credited in the BFN licensing basis. The proposed change does not affect the operational characteristics or function of systems, structures, or components (SSCs), the interfaces between credited SSCs and other plant systems, or the reliability of SSCs. The proposed change does not impact the capability of credited SSCs to perform their required safety functions.

The proposed change to the ECCS Evaluation Model meets the requirements of 10 CFR 50.46(a)(1)(ii) and ensures the limits of 10 CFR 50.46(b) are maintained. The proposed changes to TS 5.6.5a, 5.6.5b and 3.3.1.1 are required to implement AREVA Analytical Methodologies.

Therefore, the proposed TS changes will not significantly increase the consequences of an accident previously evaluated.

2. Does the proposed Technical Specification change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed deletion of a surveillance requirement to verify automatic transfer capability for the power supply to the LPCI inboard injection valves, RHR minimum flow valves and recirculation pump discharge valves does not introduce new equipment, which could create a new or different kind of accident.

The proposed change to the ECCS Evaluation Model meets the requirements of 10 CFR 50.46(a)(1)(ii) and ensures the limits of 10 CFR 50.46(b) are maintained. The proposed changes to TS 5.6.5.a, 5.6.5.b and 3.3.1.1 are required to implement AREVA Analytical Methodologies.

The proposed change does not alter the manner in which equipment operation is initiated, nor will the functional demands on credited equipment be changed. The capability of credited SSCs to perform their required function will not be affected by the proposed change. In addition, the proposed change does not affect the interaction of plant SSCs with other plant SSCs whose failure or malfunction can initiate an accident or transient. As such, no new failure modes are being introduced. No new external threats, release pathways, or equipment failure modes are created. Therefore, the proposed deletion of a surveillance requirement to verify automatic transfer capability for the power supply to the LPCI inboard injection valves, RHR minimum flow valves and recirculation pump discharge valves will not create a possibility for an accident of a new or different type than those previously evaluated.

3. Does the proposed Technical Specification change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the ECCS Evaluation Model and the deletion of a surveillance requirement to verify automatic transfer capability for the power supply to the LPCI inboard injection valves, RHR minimum flow valves and recirculation pump discharge valves does not change the conditions, operating configurations, or minimum amount of operating equipment credited in the safety analyses for accident or transient mitigation.

The proposed change does not alter the assumptions contained in the safety analyses. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined.

The proposed change does not impact the safety analysis-credited redundancy or

availability of SSCs required for accident or transient mitigation, or the ability of the plant to cope with design basis events as assumed in safety analyses. In addition, no changes are proposed in the manner in which the credited SSCs provide plant protection or which create new modes of plant operation. The requirements of 10 CFR 50.46 and Appendix K continue to be met. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The proposed changes to TS 5.6.5a, 5.6.5b, and 3.3.1.1 are required to implement AREVA Analytical Methodologies.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Jessie F. Quichocho.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Exelon Generation Company, LLC, Docket No. 50–374, LaSalle County Station, Unit 2, LaSalle County, Illinois

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC

Continued

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 25th day of October 2012.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2012–26762 Filed 11–2–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–003, 50–247, 50–286; NRC–2012–0265: License Nos.: DPR–5, DPR–26, and DPR–64]

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Indian Point 3, LLC; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC or Commission) has issued a Director's Decision with regard to a petition filed by Eric T. Schneiderman, Attorney General, State of New York. The petition, dated March 28, 2011, was supplemented by a transcript of a public meeting held on May 9, 2011, between representatives of the petitioner and the NRC. The petition concerns the operation of the Indian Point Nuclear Generating Units 1, 2, and 3 (Indian Point), owned by Entergy Nuclear Indian Point 2, LLC (Units 1 and 2) and Entergy Nuclear Indian Point 3, LLC (Unit 3) and operated by Entergy Nuclear Operations, Inc. (Entergy or the licensee).

The petitioner asked the NRC to take immediate action and issue an Order requiring the following actions regarding Indian Point Nuclear Generating Units 1, 2, and 3, that would (1) identify the violations of paragraphs F and G of Section III of Appendix R, ''Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' to part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' which exist as of the date of the petition (March 28, 2011), at Indian Point Units 1, 2, and 3, (2) compel Entergy Nuclear Operations, Inc. (Entergy, or the licensee), and its affiliates to comply on or before September 20, 2011, with the requirements in paragraphs F and G for all fire zones in Indian Point Units 2 and 3, and any Indian Point Unit 1 fire zone or system, structure, or component that Indian Point Units 2 and 3, rely upon, and (3) convene an evidentiary

hearing before the Commission to adjudicate the violation of paragraphs F and G at Indian Point Units 1, 2, and 3, by Entergy and its affiliates.

As the basis for the petition, the petitioner (1) cited the population centers adjacent to the Indian Point facility, (2) described past investigations by both the NRC's Office of Investigations and the Government Accountability Office on fire barriers, most specifically Thermo-Lag and Hemyc, (3) stated his belief that the NRC staff has not been aggressive in resolving fire barrier issues or in taking meaningful enforcement action toward Indian Point, (4) focused on the exemptions to Appendix R to 10 CFR Part 50 that the licensee submitted in March 2009, that rely upon operator manual actions (OMAs) in a large number of fire areas at Indian Point, (5) stated his belief that the regulations do not authorize OMAs as a means for protecting a redundant system from fire, and (6) referenced the accident at the Fukushima Dai-ichi nuclear power plant in Japan resulting from the March 11, 2011, Great Tōhoku Earthquake and questioned whether plant operators would be physically capable of performing these duties. Finally, the petitioner expressed his belief that (1) the NRC should reserve exemptions for extraordinary circumstances, (2) the NRC should not approve the exemptions, and (3) Entergy has not made a serious effort to comply with Federal regulations.

On May 9, 2011, the petitioner and the licensee met with the NRC's Petition Review Board. The meeting provided the petitioner and the licensee an opportunity to provide additional information and to clarify issues cited in the petition.

The NRC sent a copy of the proposed Director's Decision to the petitioner and the licensee for comment on July 2, 2012. Comments were received from both the petitioner and the licensee and are addressed in an attachment to the final Director's Decision.

The Director of the Office of Nuclear Reactor Regulation granted the petitioner's request, in part, with respect to identifying violations of fire protection requirements at Indian Point and developing a schedule and date for full compliance with the applicable regulations. The petitioner's request to order full compliance by September 20, 2011, and conduct an evidentiary hearing before the Commission to adjudicate the violations was denied. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR Section 2.206 (DD–12–03), the complete text of which is available in Agencywide Documents Access and Management System (ADAMS) Accession No. ML12240A077 and is available for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, *http:www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room).

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 24th day of October 2012.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–26926 Filed 11–2–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30252; File No. 812–13740]

Van Eck Funds, et al.; Notice of Application

October 25, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered open-end management investment companies to co-invest in Covered Private Placements (as defined below) with each other and/or with one or more affiliated private investment companies.

APPLICANTS: Van Eck Funds, Van Eck VIP Trust (formerly known as Van Eck Worldwide Insurance Trust) (each, an ''Existing Investment Company,'' and together, the ''Existing Investment Companies''), Global Energy Opportunity Partners LP, Global Energy Opportunity Fund, Ltd., Hard Asset Partners LP, Hard Assets Portfolio Ltd., Hard Assets ERISA Ltd., Hard Asset Partners 2X LP, Hard Assets 2X Fund Ltd., Hard Assets 2X Master Fund Ltd., Hard Assets Opportunity Fund LP, Hard Assets Opportunity Fund Ltd., Hard Assets Opportunity Master Fund Ltd., G–175 Strategies LP, G–175 Strategies Ltd., G–175 Strategies Master Fund Ltd., Van Eck Veda Emerging Markets Long/Short Fund LP, Van Eck Veda Emerging Markets Long/Short Fund Ltd., Van Eck Veda Emerging Markets Long/Short Master Fund Ltd. (each, an ''Existing Unregistered Account,'' and collectively, the ''Existing Unregistered Accounts''), Van Eck Associates Corporation (''VEAC'') and Van Eck Absolute Return Advisers Corporation (''VEARA'').

DATES: *Filing Dates:* The application was filed on December 31, 2009, and amended on June 29, 2010, April 27, 2012 and October 19, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 21, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: c/o Joseph J. McBrien, Esq., Senior Vice President and General Counsel, Van Eck Associates Corporation, 335 Madison Avenue, 19th Floor, New York, NY 10017–4632.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://*

www.sec.gov/search/search.htm or by calling (202) 551–8090.

Applicants' Representations

1. Each Existing Investment Company, a Massachusetts business trust, is registered under the Act as an open-end management investment company. Each Existing Investment Company currently offers separate series and may offer additional series in the future. The board of trustees of each Existing Investment Company and the board of trustees or directors of any other Fund (as defined below) (each, a ''Board'') has or will have a majority of trustees who are or will be persons who are not ''interested persons'' as defined in section 2(a)(19) of the Act (collectively, ''Independent Trustees''). VEAC, a Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). VEAC serves as the investment adviser to the Existing Investment Companies.

2. Each Existing Unregistered Account is formed as a Delaware limited partnership, a company incorporated under the laws of the Cayman Islands, or a company organized under the laws of the British Virgin Islands. The Existing Unregistered Accounts are not registered as investment companies under the Act in reliance on either section 3(c)(1) or section 3(c)(7) of the Act.[1] VEARA, a Delaware corporation and a wholly owned subsidiary of VEAC, is registered as an investment adviser under the Advisers Act. VEARA serves as the general partner or the investment adviser or both to each Existing Unregistered Account.

3. Applicants request an order (''Order'') under section 17(d) of the Act and rule 17(d)–1 under the Act to permit the Funds:[2] (a) To invest jointly among themselves and/or one or more of the Unregistered Accounts in private placement[3] transactions in which a Van Eck Adviser negotiates terms in addition to price (''Covered Private Placements''); and (b) make follow-on investments in Covered Private Placements of such issuers, including through the exercise of warrants, conversion privileges, and other rights associated with Covered Private Placements (''Follow-On Investments''). Any investment opportunity described above in which a Fund could not participate together with one or more Funds or one or more Unregistered Accounts without obtaining and relying on the Order is referred to as a ''Potential Joint Investment,'' and any investment opportunity described above in which a Fund participated together with one or more Funds or one or more Unregistered Accounts in reliance on the Order is referred to as a ''Joint Investment.'' Each Fund and Unregistered Account may invest its Total Available Capital[4] in Covered Private Placements; *provided that,* with respect to each Fund, the Fund's investment is limited by its Objectives and Strategies.[5]

4. When considering Potential Joint Investments for any Fund, the Fund Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Fund. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Fund Adviser will present each Potential Joint Investment and the proposed allocation to the trustees eligible to vote under section 57(o) of the Act (''Eligible Trustees''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority''), will approve each Joint Investment prior to any investment by the participating Fund.

5. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Fund and Unregistered Account in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Fund has approved that Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Fund's Eligible Trustees. The Board of any Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Trustees.

6. Applicants state that no Independent Trustee of a Fund will have a financial interest in any Joint Investment.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Section 2(a)(3)(E) of the Act provides that an ''affiliated person'' of another person includes any investment adviser of such other person if such other person is an investment company. Section 2(a)(3)(C) of the Act provides that an ''affiliated person'' of another person includes any person directly or indirectly controlling, controlled by, or under common control, with such person. Section 2(a)(9) of the Act, in relevant part, defines control as the power to exercise a controlling influence over the management or policies of a company.

[1] This includes those Unregistered Accounts that are organized under the laws of a non-U.S. jurisdiction and that rely on interpretations by the staff of the Commission extending the requirements of sections 3(c)(1) and 3(c)(7) of the Act for the purposes of applying section 7(d) of the Act.

[2] Applicants request that the Order apply to (i) all other existing or future registered investment companies or series thereof (together with the Existing Investment Companies or series thereof, the ''Funds'') for which VEAC or any other person controlling, controlled by or under common control with VEAC serves as investment adviser (each, a ''Fund Adviser''); (ii) all other existing or future accounts or pooled investment vehicles that are not registered investment companies and are not required to register as investment companies under the Act, and for which VEARA, VEAC or another person controlling, controlled by or under common control with VEARA or VEAC serves as general partner or investment adviser (such accounts and investment funds, together with the Existing Unregistered Accounts, are referred to as the ''Unregistered Accounts''); and (iii) any other person controlling, controlled by or under common control with VEARA or VEAC that serves as general partner or investment adviser to any Fund or Unregistered Account (the ''Van Eck Advisers''). All entities that currently intend to rely on the requested Order are named as applicants. All other existing or future entities that will rely on the requested Order will comply with the terms and conditions of the application.

[3] The term ''private placement'' refers to a transaction in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act of 1933 (''Securities Act'').

[4] ''Total Available Capital'' means, with respect to each Fund and each Unregistered Account, the total assets of such Fund or Unregistered Account plus all amounts readily available for investment by means of the exercise of rights, if any, of the Unregistered Account to make a capital call on investors.

[5] ''Objectives and Strategies'' means the investment objectives and strategies of a Fund, as described in the Fund's registration statement on Form N–1A, other filings the Fund has made with the Commission under the Securities Act, or under the Securities Exchange Act of 1934, and the Fund's report to shareholders.

3. Applicants state that the Funds and the Unregistered Accounts are sponsored and managed by Van Eck Advisers. The Fund Advisers, to the extent they are investment advisers of the Funds, are affiliated persons of the Funds within the meaning of section 2(a)(3)(E) of the Act. The Van Eck Advisers also could be deemed to be affiliated persons of the Funds and/or Unregistered Accounts under section 2(a)(3)(C) to the extent the Van Eck Advisers are deemed to control the Funds and/or Unregistered Accounts. Accordingly, the Funds and the Unregistered Accounts could be affiliated persons of one another to the extent they are deemed to be under the common control of the Van Eck Advisers. Applicants state that if the Funds and the Unregistered Accounts are deemed to be affiliated persons of one another, the proposed Joint Investments could be considered prohibited transactions under section 17(d) and rule 17d–1.

4. Applicants state that in the absence of the requested relief, the Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Joint Investments are consistent with the protection of each Fund's investors and with the purposes intended by the policies and provisions of the Act. Applicants state that the Funds' participation in the Joint Investments will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief will be subject to the following conditions:

1. Each time a Van Eck Adviser considers a Potential Joint Investment for an Unregistered Account or another Fund that falls within a Fund's then-current Objectives and Strategies, the Fund Adviser will make an independent determination of the appropriateness of the investment for the Fund in light of the Fund's then-current circumstances.

2. (a) If the Fund Adviser deems a Fund's participation in any Potential Joint Investment to be appropriate for the Fund, it will then determine an appropriate level of investment for the Fund.

(b) If the aggregate amount recommended by the Van Eck Advisers to be invested in the Potential Joint Investment by the Funds and the Unregistered Accounts, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each party will be allocated among them pro rata based on each party's Total Available Capital, up to the amount proposed to be invested by each. The Fund Adviser will provide the Eligible Trustees with information concerning each participating party's Total Available Capital to assist the Eligible Trustees with their review of the Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Fund Adviser will distribute written information concerning the Potential Joint Investment (including the amount proposed to be invested by each Fund and any Unregistered Account) to the Eligible Trustees for their consideration. A Fund will co-invest with another Fund or an Unregistered Account only if, prior to participating in the Potential Joint Investment, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Fund and its shareholders and do not involve overreaching in respect of the Fund or its shareholders on the part of any person concerned;

(ii) The transaction is consistent with:

(A) The interests of the shareholders of the Fund; and

(B) The Fund's then-current Objectives and Strategies;

(iii) The investment by other Funds or Unregistered Accounts would not disadvantage the Fund, and participation by the Fund would not be on a basis different from or less advantageous than that of other Funds or Unregistered Accounts; *provided* that, if any other Fund or Unregistered Account, but not the Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event will not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Trustees will have the right to ratify the selection of such director or board observer, if any;

(B) The Fund Adviser agrees to, and does, provide, periodic reports to the Fund's Board with respect to the actions of the director or the information received by the board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) Any fees or other compensation that any Unregistered Account or any Fund or any affiliated person of any Unregistered Account or Fund receives in connection with the right of the Unregistered Account or the Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Unregistered Accounts (who may, in turn, share their portion with their affiliated persons) and the participating Funds in accordance with the amount of each party's investment; and

(iv) The proposed investment by the Fund will not benefit a Van Eck Adviser, any other Funds, the Unregistered Accounts or any affiliated person of any of them (other than the parties to the Joint Investment), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) of the Act, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Joint Investment, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Fund has the right to decline to participate in any Potential Joint Investment or to invest less than the amount proposed.

4. The Fund Adviser will present to the Board on a quarterly basis, a record of all investments in Potential Joint Investments made by any of the other Funds or any of the Unregistered Accounts during the preceding quarter that fell within the Fund's then-current Objectives and Strategies that were not made available to the Fund, and an explanation of why the investment opportunities were not offered to the Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8, a Fund will not invest in reliance on the Order in any issuer in which another Fund or an Unregistered Account or any affiliated person of such Fund or Unregistered Account is an existing investor.

6. A Fund will not participate in any Potential Joint Investment unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Fund and Unregistered Account. The grant to an Unregistered Account or another Fund,

but not the Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Unregistered Account or Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Joint Investment, the Van Eck Adviser will:

(i) Notify each Fund that participated in the Joint Investment of the proposed disposition at the earliest practical time; and

(ii) Formulate a recommendation as to participation by each Fund in the disposition.

(b) Each Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Unregistered Accounts and any other Fund.

(c) A Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Fund and Unregistered Account in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Fund has approved as being in the best interests of the Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of each Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Fund Adviser will provide its written recommendation as to the Fund's participation to the Eligible Trustees, and the Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Fund's best interests.

(d) Each Unregistered Account and each Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Unregistered Account or Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Joint Investment, the Van Eck Adviser will:

(i) Notify each Fund that participated in the Joint Investment of the proposed transaction at the earliest practical time; and

(ii) Formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Fund.

(b) A Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) the proposed participation of each Fund and Unregistered Account in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Fund has approved as being in the best interests of the Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Fund Adviser will provide its written recommendation as to the Fund's participation to the Eligible Trustees, and the Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Funds' and Unregistered Accounts' outstanding investments immediately preceding the Follow-On Investment; and

(ii) The aggregate amount recommended by the Fund Adviser to be invested by the Fund in the Follow-On Investment, together with the amount proposed to be invested by any other Fund and the Unregistered Account in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's Total Available Capital, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Joint Investment for all purposes and subject to the other conditions set forth in the application.

9. The Independent Trustees of each Fund will be provided quarterly for review all information concerning Potential Joint Investments and Joint Investments, including investments made by other Funds or Unregistered Accounts that the Fund considered but declined to participate in, so that the Independent Trustees may determine whether all investments made during the preceding quarter, including those investments that the Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Trustees will consider at least annually the continued appropriateness for the Fund of participating in new and existing Joint Investments.

10. Each Fund will maintain the records required by section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No Independent Trustee of a Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of any of the Unregistered Accounts.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Joint Investment (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by a Van Eck Adviser under its investment advisory agreements with the Funds and the Unregistered Accounts, be shared by the Funds and the Unregistered Accounts in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) of the Act) received in connection with a Joint Investment will be distributed to the participating Funds and Unregistered Accounts on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Joint Investment. If any transaction fee is to be held by a Van Eck Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Van Eck Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the Funds and Unregistered Accounts based on the amounts they invest in such Joint Investment. None of the Unregistered Accounts, the Van Eck Adviser nor any affiliated person (as defined in the Act) of the Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Joint Investment (other than (a) in the case of the Funds and the Unregistered Accounts, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of the Van Eck Adviser, investment advisory fees paid in accordance with the agreements between the Van Eck Adviser and the Funds or the Unregistered Accounts).

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26910 Filed 11–2–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68112; File No. SR–OCC–2012–14]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to the Clearance and Settlement of Over-the-Counter Options

October 26, 2012.

On August 30, 2012, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change and Advance Notice SR–OCC–2012–14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on September 18, 2012 [3] and an Advance Notice was published for comment in the **Federal Register** on September 27, 2012.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the public of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is November 2, 2012. The Commission is extending this 45 day time period.

The proposed rule change relates to OCC's adoption of rules to permit the clearing of Over-the-Counter (''OTC'') options on the S&P 500 Index. In light of the fact that OCC does not currently provide clearing services for OTC products and because no registered clearing agency currently provides clearing services for OTC S&P 500 Index options, the Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19b(b)(2) of the Act,[6] designates December 17, 2012, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–OCC–2012–14).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26909 Filed 11–2–12; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67835 (September 12, 2012), 77 FR 57602 (September 18, 2012).

[4] Securities Exchange Act Release No. 67906 (September 21, 2012), 77 FR 59431 (September 27, 2012).

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68114; File No. SR–DTC–2012–08]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Its Corporate Actions Service in Order To Introduce a New Standard To Communicate Certain Corporate Actions Information to Participants

October 26, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on October 16, 2012, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) [3] of the Act and Rule 19b–4(f)(4)(i) [4] thereunder, so that the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(i).

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

As discussed below, this rule change updates DTC's standards for communicating information related to distribution events by publishing the data in industry-standard International Organization for Standardization (''ISO'') 20022 format for the entire lifecycle of the event. Additionally, DTC will be replacing corporate actions functions on its Participant Terminal System (PTS)/Participant Browser Service (PBS) applications with a new browser user interface related to the processing of distribution events.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

When significant events occur in the life of a security, they are typically announced to shareholders and others in a press release or a Commission filing. DTC handles essential aspects of processing distribution events [6] by routinely receiving and distributing information to its Participants using its proprietary computer to computer facility (''CCF'') files. In order to reduce risk, improve transparency and increase efficiency in the announcing and processing of distribution events, DTC is updating its standards for communicating information related to these events by publishing the data in industry-standard ISO 20022 format for the entire lifecycle of the event.[7] DTC

[5] The Commission has modified the text of the summaries prepared by DTC.

[6] The lifecycle of a distribution event includes an announcement of the event, a record date entitlement assigned to each Participant entitled to a distribution, a potential instruction given from the Participant as to how to handle an optional distribution, an allocation of a credit to the Participant and a post allocation communication to those Participants involved in the distribution.

[7] The ISO 20022 format allows for a greater number of data elements from their equivalent CCF formats, and the new real-time messaging protocols allow for more frequent updates and access to messages intraday as opposed to many of the end-of-day batch CCF files.

will also be replacing corporate actions functions on its PTS/PBS applications with a new browser user interface related to the processing of distribution events.

Participants that have volunteered to participate in a pilot program will receive ISO 20022 messages across the entire life cycle of distribution events (announcement, entitlements, instructions and allocations) for testing purposes. The pilot program will be two-tiered in nature, where testing will initially begin with DTC emailing sample ISO 20022 messages containing test data and then gradually move to messages that are generated systemically in order for Participants to conduct a parallel production test. The Participants who are participating in the pilot will continue to receive all distribution event data via CCF files in order to run their proprietary production systems. The pilot program will run until the second quarter of 2014. Following the termination of the pilot program, Participants will have the option to rely on the ISO 20022 distribution event information to process daily activity in their production environments. However, DTC will continue to support its legacy proprietary CCF files for distribution event information until 2015.

Additionally, DTC will be replacing corporate actions functions on its PTS/PBS applications with a new browser user interface related to the processing of distribution events. The interface will incorporate the entire lifecycle of a distribution event into one platform with a unique corporate action identifier per event that follows the event through its lifecycle.[8] DTC's proprietary codes and acronyms will be replaced with market standard language. For example, a cash dividend payment in the market that DTC identifies and communicates as an ''08'' function code in PTS/PBS and via CCF file will now be identified as a ''Cash Dividend'' event. Participants will also be able to customize information on certain screens on the interface and have flexible search methods. Testing of the interface will take place in 2013 and use of the new user interface for processing of distribution events will be mandatory for all DTC Participants beginning in the second quarter of 2014. DTC will offer training to all customers at least six months prior to implementation. To assist with the transition, DTC will continue to support PTS/PBS functionality for customers via an inquiry-only view for at least six months after the use of the new interface becomes mandatory.

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder, because it modifies a DTC service in order to make the process for notifying Participants of distribution events more efficient.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(4)(i)[10] thereunder because it effects a change in an existing service of DTC that does not significantly affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and does not significantly affect the respective rights or obligations of DTC or persons using this service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–DTC–2012–08 on the subject line.

Paper Comments

- Send in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–DTC–2012–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2012/dtc/SR–DTC–2012–08.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2012–08 and should be submitted on or before November 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26946 Filed 11–2–12; 8:45 am]

BILLING CODE 8011–01–P

[8] This contrasts with the current announcements processed through PTS/PBS in which there are multiple function codes associated with an event's lifecycle.

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(4)(i).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0103]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to collect information.

SUMMARY: FHWA is informing the public of their intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: James Dahlem, 202–366–9265 or *james.dahlem@dot.gov,* Office of Safety, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* Study of High-Risk Rural Roads Best Practices.

Background: Section 1112 of the ''Moving Ahead for Progress in the 21st Century Act'' of 2012 (MAP–21) calls for a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads. In carrying out the study, FHWA is required to conduct a nationwide survey of the current practices of various agencies. The results of the survey are to be used in conjunction with a research study to create a report to submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives by October 1, 2013. The report is required to include: (1) A summary of cost-effective roadway safety infrastructure improvements; (2) a summary of the latest research on the financial savings and reductions in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and (3) and recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads. The legislation also requires the results of the survey and the report to be used to create a best-practices manual to support Federal, State, and local efforts to reduce fatalities and serious injuries on high-risk rural roads.

Respondents: The respondents will include all 50 State Departments of Transportation. In addition, a representative sampling of 100 local agencies, such as county highway departments and municipal public works agencies will be surveyed.

Frequency: Once.

Estimated Average Burden per Response: Approximately 8 hours.

Estimated Total Annual Burden Hours: The total burden for this collection is approximately 1,200 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: October 26, 2012.

Victoria Scott,

Business Operations Group Manager, IT Division.

[FR Doc. 2012–26917 Filed 11–2–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: San Bernardino and Los Angeles Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that a Draft Environmental Impact Statement (EIS) will be prepared for a proposed highway project in San Bernardino and Los Angeles Counties, California.

DATES: The public scoping meetings will be held on the following dates:

(1) Tuesday, November 13, 2012 from 5–7 p.m.

(2) Thursday, November 15, 2012 from 5–7 p.m.

The final day to submit comments is Monday, November 26, 2012.

ADDRESSES: The two public scoping meetings will be held at the following locations.

(1) Hilton San Bernardino, 285 East Hospitality Lane, San Bernardino, California 92408

(2) Sheraton Ontario Airport Hotel, 429 North Vineyard Avenue, Ontario, California 91764

FOR FURTHER INFORMATION CONTACT: Aaron Burton, Branch Chief, California Department of Transportation, District 8—Environmental Studies 'B' Branch Chief, 464 West 4th Street, MS–829, San Bernardino, CA 92401–1400; or call (909) 383–2841*mailto:*. Comments on the proposed project can be submitted online at: *http://sanbag.ca.gov/projects/mi_fwy_I-10-Corridor.html.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the assigned National Environmental Policy Act (NEPA) agency, in cooperation with San Bernardino Associated Governments (SANBAG) will prepare a draft Environmental Impact Statement on a proposal for a highway improvement project in San Bernardino County, California. The proposed Interstate 10 (I–10) Corridor Project consists of improvements and widening along an existing 35-mile segment of the I–10 freeway mainline. The proposed project would also involve improvement of existing bridges and freeway ramps. The following alternatives are being considered:

Alternative 1: No Build (No Action)

Alternative 2: One High Occupancy Vehicle Lane In Each Direction

Alternative 3: Two Express Lanes In Each Direction

The proposed project would widen the I–10 corridor from approximately 2 miles west of the Los Angeles/San Bernardino County line in the City of Pomona (Post Mile 46.12) to Ford Street in the City of Redlands (Post Mile 33.80). It is anticipated that the proposed project will require a Clean Water Act Section 404 permit, a Section 408 permit, a Section 4(f) *De Minimis* Finding, an Endangered Species Act Section 7 Incidental Take Authorization (Biological Opinion) and Section 106 Finding of Effect Determination.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, Participating Agencies, local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Interested tribal governments will be involved as determined by consultation with the Native American Heritage Commission.

Public scoping meetings will be held on the following dates and locations:

(1) Tuesday, November 13, 2012 from 5–7 p.m. at the Hilton San Bernardino, 285 East Hospitality Lane, San Bernardino, California 92408

(2) Thursday, November 15, 2012 from 5–7 p.m. at the Sheraton Ontario

Airport Hotel, 429 North Vineyard Avenue, Ontario, California 91764

In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Caltrans at the address provided above or online at the I–10 Corridor Project Web site at: *http://sanbag.ca.gov/projects/mi_fwy_I-10-Corridor.html.*

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 18, 2012.

David Bricker,

Deputy District Director, District 8, Division of Environmental Planning, California Department of Transportation.

[FR Doc. 2012–26894 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327, and the U.S. Army Corps of Engineers.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, State Route 91 from the cities of Anaheim and Yorba Linda to the City of Riverside, in the counties of Orange and Riverside, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 4, 2013. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Aaron Burton, Branch Chief, California Department of Transportation District 8, Division of Environmental Planning, 464 West 4th Street, 6th Floor, MS 829, San Bernardino, California 92401–1400, during normal business hours from 9:00 a.m. to 5:00 p.m., telephone (909) 383–2841, email *aaron_burton@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The State Route 91 (SR–91) Corridor Improvement Project includes one general purpose lane would be constructed in each direction on SR–91, from the SR–91/Route 241 (SR–241) interchange in the Cities of Anaheim and Yorba Linda to Pierce Street in the City of Riverside. The existing express lanes in Orange County will be extended east from the Orange/County line to Interstate 15 (I–15) in the City of Corona. The existing HOV lanes would be converted to tolled express lanes, and one additional tolled express lane would be added in each direction on SR–91. Direct tolled express lane connectors would be constructed on southbound and northbound I–15 near the Ontario Avenue interchange through the SR–91/I–15 interchange to connect to the eastbound and westbound SR–91 tolled express lanes. Auxiliary lanes would be added at various locations.

The project is intended to improve the vehicle, person, and goods movement within the SR–91 corridor to more effectively serve existing and future travel demand between and within Riverside and Orange Counties; and to provide improvements along the SR–91 and I–15 transportation corridors as well as to related local roads, and to reduce diversion of regional traffic from the freeways into the surrounding communities.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on August 10, 2012, in the FHWA Record of Decision (ROD) issued on October 23, 2012, and in other documents in the FHWA project records. The Final FEIS, ROD, and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.sr91project.info/index.php.*,or viewed at public libraries in the project area.

The U.S. Army Corps of Engineers decision and Section 404 Nationwide Permit are available by contacting California Department of Transportation District 8 at the address provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351).

2. Clean Air Act (42 U.S.C. 7401–7671(q)).

3. Migratory Bird Treaty Act (16 U.S.C. 703–712).

4. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) et seq.).

5. Clean Water Act (Section 401) (33 U.S.C. 1251–1377).

6. Federal Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

7. Executive Order 11990—Protection of Wetlands.

8. Executive Order 11988—Floodplain Management.

9. Executive Order 12898—Environmental Justice.

10. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303).

11. Executive Order 13112—Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: October 23, 2012.

Basem Muallem,

District Director, District 8, California Department of Transportation.

[FR Doc. 2012–26937 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0106; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: General Motors, LLC [1] (GM) has determined that certain model year 2012 Chevrolet Captiva and Buick Verano passenger cars manufactured between April 6, 2011 and June 4, 2011, do not fully comply with paragraph S5.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays* and paragraphs S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems.* GM has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (dated June 13, 2011).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles Involved: Affected are approximately 47,822 model year 2012 Chevrolet Captiva and Buick Verano model passenger cars that were manufactured between April 6, 2011 and June 4, 2011.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 47,822 [2] model year 2012 Chevrolet Captiva and Buick Verano model passenger cars that GM no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: GM explains that the noncompliance is that the telltales used for Park Brake are displayed using International Organization for Standardization (ISO) symbols instead of the telltale symbols required by FMVSS Nos. 101 and 135.

Rule Text: Paragraph S5.2.1 of FMVSS No. 101 requires:

> S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must be substantially similar in form to the symbol as it appears in Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must have the proportional dimensional characteristics of the symbol as it appears in Table 1 or Table 2. The Low Tire Pressure Telltale (either the display identifying which tire has low pressure or the display which does not identify which tire has low pressure) shall be identified by the appropriate symbol designated in column 4, or both the symbol in column 4 and the words in column 3. No identification is required for any horn (i.e., audible warning signal) that is activated by a lanyard or by the driver pressing on the center of the face plane of the steering wheel hub; or for a turn signal control that is operated in a plane essentially parallel to the face plane of the steering wheel in its normal driving position and which is located on the left side of the steering column so that it is the control on that side of the column nearest to the steering wheel face plane. However, if identification is provided for a horn control in the center of the face plane of the steering wheel hub, the identifier must meet Table 2 requirements for the horn.

Paragraphs S5.5.5 of FMVSS No. 135 requires in pertinent part:

> S5.5.5. Labeling. (a) Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and this section, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (1/8 inch) high and the letters and background shall be of contrasting colors, one of which is red. Words or symbols in addition to those required by Standard No. 101 and this section may be provided for purposes of clarity.
>
> (b) Vehicles manufactured with a split service brake system may use a common brake warning indicator to indicate two or more of the functions described in S5.5.1(a) through S5.5.1(g). If a common indicator is used, it shall display the word ''Brake.''
>
> * * *

Summary of GM's Analysis and Arguments: GM explained that the noncompliance is that the telltales used for parking brake are displayed using International Organization for Standardization (ISO) symbols instead of the telltale symbols required by FMVSS Nos. 101 and 135.

GM stated its belief that although the instrument cluster telltale symbols are displayed using ISO symbols the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) The functionality of all braking systems, including the service brakes and parking brakes, is not affected by the noncompliance and the vehicles will operate as intended.

(2) In addition to the parking brake telltale, the Captiva Driver Information Center (DIC) provides a message when the parking brake is set. Specifically, when the parking brake is applied and the ISO parking brake telltale is illuminated, the following message is also displayed: ''Park Brake Set''

(3) In the noncompliant vehicles, the electronic parking brake automatically releases when the vehicle transmission is in drive and the vehicle is driven away.

(4) The description of the parking braking operation, found in the owner's manual, clearly indicates the ISO parking brake symbol will be displayed when the parking brake is applied.

(5) The control, which applies and releases the parking brake on the subject vehicles, is identified with the same ISO symbol that is used on the telltale to indicate the parking brake is applied.

(6) Other current and previous vehicles manufactured by GM and other manufacturers use the ISO parking brake symbol in conjunction with the word ''PARK'', or a common brake telltale incorporating the subject park brake symbol in conjunction with the word ''BRAKE'' and the ISO symbol for brake malfunction, to indicate the application of the parking brake. GM has also, confirmed that the Parking Brake ISO telltale, in conjunction with the brake malfunction telltale and word ''BRAKE'', has been used on other vehicles and thus the motoring public has come to associate the ISO park brake symbol with the application of the parking brake.

(7) GM is unaware of any field or owner complaints or injuries regarding the subject noncompliance.

[1] General Motors, LLC is a manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

[2] GM's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt GM as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for 47,822 of the affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

In summation, GM believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Comments: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. Electronically: By logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

DATES: Comment closing date: December 5, 2012.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8).

Issued on: October 24, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–26914 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Innovative Technology Administration

[Docket Number: RITA–2008–0002]

Agency Information Collection Activity; Notice of Request for Approval to Collect New Information: Confidential Close Call Reporting for Transit Rail System

AGENCY: Bureau of Transportation Statistics (BTS), Research and Innovative Technology Administration (RITA), U.S. Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the Bureau of Transportation Statistics to request the Office of Management and Budget (OMB) to approve the following information collection: Confidential Close Call Reporting for Transit Rail System. This data collection effort supports a multi-year program focused on improving transit rail safety by collecting and analyzing data and information on close calls and other unsafe occurrences in the Washington Metropolitan Area Transit Authority (WMATA) rail system. The program is co-sponsored by WMATA's Office of the Deputy General Manager Operations (DGMO) and the President/Business Agent of the Amalgamated Transit Union (ATU) Local 689. It is designed to identify safety issues and propose corrective actions based on voluntary reports of close calls submitted confidentially to the Bureau of Transportation Statistics (BTS), U.S. Department of Transportation. This information collection is necessary to aid WMATA/ATU in systematically collecting and analyzing data to identify root causes of potentially unsafe events.

DATES: Written comments should be submitted by January 4, 2013.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically. Docket Number: RITA–2008–2002.
- *Mail:* Docket Management Facility (DMF), U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251. Identify all transmission with ''Docket Number RITA–2008–0002'' at the beginning of each page of the document.

Instructions: All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The DMF is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket RITA–2008–0002.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all comments received, including any personal information, will be posted and will be available on the Internet users, without change, at *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may review the Privacy Act Statement at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Demetra V. Collia, Bureau of Transportation Statistics, Research and Innovative Technology Administration, U.S. Department of Transportation, Office of Advanced Studies, RTS–31, E324–302, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions: The confidentiality of Close Call data is protected under the BTS confidentiality statute (49 U.S.C. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (Pub. L. 107–347, Title V). In accordance with these confidentiality statutes, only statistical and non-identifying data will be made publicly available through reports. BTS will not release to WMATA/ATU or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in close call reports without explicit consent of the respondent.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval for the following BTS information collection activity:

Title: Confidential Close Call Reporting for Transit Rail System

OMB Control Number: TBD.

Type of Review: Approval of data collection.

Respondents: WMATA rail employees.

Number of Respondents: 400 (per annum).

Estimated Time per Response: 1 hour.

Frequency: Intermittent for 5 years. (Reports are submitted when there is a qualifying event, i.e., when a close call occurs within WMATA's rail system.)

Total Annual Burden: 400 hours.

Abstract: Collecting safety data on the nation's transportation system is an important component of BTS's responsibility to the transportation community and is authorized in BTS statute (49 U.S.C. 6302). BTS and WMATA/ATU share a common interest in promoting transit rail safety based on accurate information. To that end, WMATA's Office of the Deputy General Manager Operations (DGMO) and ATU's President/Business Agent are sponsoring the Confidential Close Call Reporting for Transit Safety Rail System (C^3RTSRS) project to investigate the effectiveness of such system in improving transit rail safety. A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge about a close call presents an opportunity to address unsafe work conditions and improve safety in the workplace.

It is estimated that the time to complete a close report and participate in a brief confidential interview will be no than 60 minutes for a maximum total burden of 400 hours (400 reports*60 minutes/60 = 400 hours). Reports are submitted when there is a qualifying event, i.e., a close call occurs within WMATA's rail system.

II. Background

Collecting data on the nation's transportation system is an important component of BTS' mission and responsibility to the transportation community as stated in its authorizing statute (49 U.S.C. 6302). BTS and WMATA/ATU share a common interest in promoting rail transit safety through the use of timely, accurate, and relevant data. WMATA/ATU is sponsoring the Confidential Close Call Reporting for Transit Rail System (C^3RTRS) project to improve transit rail safety by studying the effectiveness of its own rail system through data and information collected from reported close calls.

A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge about a close call presents an opportunity to address unsafe work conditions, prevent accidents, and improve safety in the workplace.

BTS will collect close call reports submitted by WMATA rail employees, conduct employee interviews, as needed, develop an analytical database containing the reported data and other pertinent information, provide statistical analysis to WMATA, and protect the confidentiality of these data through its own statute (49 U.S.C. 6302) and CIPSEA. Accordingly, only statistical and non-sensitive information will be made available through publications and reports.

Voluntary reporting of close calls to a confidential system can provide a tool to identify and correct weaknesses in WMATA's transit rail system and help prevent accidents. The C^3RTRS project will foster a voluntary, cooperative, non-punitive environment to communicate safety concerns. Through the analysis of close calls the WMATA/ATU will receive information about factors that may contribute to unsafe events and use that information to develop new training programs and identify root causes of potentially adverse events. The database will also potentially provide researchers with valuable information regarding precursors to safety risks and contribute to research and development of intervention programs aimed at preventing accidents and fatalities.

Employees involved in reporting a close call incident will be asked to fill out a report and participate in a brief, confidential interview. Employees will have the option to mail or submit the report electronically to BTS. Participants will be asked to provide information such as: (1) Name and contact information; (2) time and location of the event; (3) a short description of the event; (4) contributing factors to the close call; and (5) any other information that might be useful in determining a root cause of such event.

III. Request for Public Comment

BTS requests comments on any aspects of this information collection request, including: (1) The accuracy of the estimated burden of 400 hours detailed in Section I; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the information collected, including additional use of automated collection techniques or other forms of information technology.

Issued on: _October 25, 2012.

Patricia Hu,

Director, Bureau of Transportation Statistics, Research and Innovative Technology Administration.

[FR Doc. 2012–26936 Filed 11–2–12; 8:45 am]

BILLING CODE 4910–HY–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Release of the Commission's 2012 Annual Report to Congress

Advisory Committee: U.S.-China Economic and Security Review Commission.

ACTION: Notice of Official Public Release of the Commission's 2012 Annual Report to Congress on November 14, 2012.

SUMMARY: Notice is hereby given of a meeting of the U.S.-China Economic and Security Review Commission.

Name: Dennis C. Shea, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on the U.S.-China economic and security relationship. The mandate specifically charges the Commission to prepare a report to Congress ''regarding the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China [that] shall include a full

analysis, along with conclusions and recommendations for legislative and administrative actions * * *.''

Purpose of Meeting

Pursuant to this mandate, the Commission will hold an official public conference in Washington, DC to release the 2012 Annual Report on November 14, 2012.

The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Pub. L. 109–108). In accord with FACA, meetings of the Commission to make decisions concerning the substance and recommendations of its 2012 Annual Report to Congress are open to the public.

Topics Addressed

The Commission's 2012 Annual Report contains the following chapters and sections:

- Executive Summary
  - Key Recommendations for Congress
- Introduction
- Chapter 1: The U.S.-China Trade and Economic Relationship
  - Section 1: Trade and Economics Year in Review
  - Section 2: Chinese State-Owned and State-Controlled Enterprises
  - Section 3: The Evolving U.S.-China Trade & Investment Relationship
- Chapter 2: China's Impact on U.S. Security Interests
  - Section 1: Military and Security Year in Review
  - Section 2: China's Cyber Activities
  - Section 3: China's Nuclear Developments
- Chapter 3: China in Asia
  - Section 1: China and the South China Sea
  - Section 2: China and Taiwan
  - Section 3: China and Hong Kong
- Chapter 4: China's Global Reach
  - Section 1: China and Europe
  - Section 2: China's Demand for and Control of Global Resources
- Chapter 5: Assessing China's Efforts to Become an Innovative Society
- Chapter 6: China's Political Transition

Release Date, Time, And Location (Eastern Daylight Time)

- Wednesday, November 14, 2012 (10:00 a.m.)—Dirksen Senate Office Building, Room 538

ADDRESSES: The Commission's official public conference to release the 2012 Annual Report will be held in the Dirksen Senate Office Building, Room 538. The Dirksen Senate Office Building adjoins the Hart Senate Office Building and can be accessed through entrances on 1st Street and C Street.

Public seating is limited and will be available on a ''first-come, first-served'' basis. Advanced reservations are not required. All participants must register at the front desk.

FOR FURTHER INFORMATION CONTACT: Gavin Williams, USCC Staff Assistant, U.S.-China Economic and Security Review Commission, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; Phone: (202) 624–1407; Email: *gwilliams@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: October 31, 2012.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2012–26952 Filed 11–2–12; 8:45 am]

BILLING CODE 1137–00–P

FEDERAL REGISTER

Vol. 77 Monday,

No. 214 November 5, 2012

Part II

The President

Proclamation 8894—To Implement the United States-Panama Trade Promotion Agreement and for Other Purposes

Notice of November 1, 2012—Continuation of the National Emergency With Respect to Weapons of Mass Destruction

Federal Register
Vol. 77, No. 214
Monday, November 5, 2012

Presidential Documents

Title 3—

The President

Proclamation of October 29, 2012

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

By the President of the United States of America

A Proclamation

1. On June 28, 2007, the United States entered into the United States-Panama Trade Promotion Agreement (the ''Agreement''). The Congress approved the Agreement in section 101(a) of the United States-Panama Trade Promotion Agreement Implementation Act (the ''Implementation Act'') (Public Law 112–43, 125 Stat. 497).

2. Section 105(a) of the Implementation Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement.

3. Section 201 of the Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 3.3, 3.5, 3.6, and 3.27, 3.28, and 3.29 and Annex 3.3 of the Agreement.

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

5. Consistent with section 201(a)(3) of the Implementation Act, Panama is removed from the enumeration of beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2701 *et seq.*), subject to the exceptions set out in section 201(a)(3)(B) of the Implementation Act.

6. Consistent with section 213(b)(5)(D) of the CBERA, as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (Public Law 106–200), Panama is removed from the enumeration of designated CBTPA beneficiary countries.

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

8. Section 201(d) of the Implementation Act authorizes the President to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

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

10. Section 203(o)(4) of the Implementation Act authorizes the President, after receiving a request from an interested entity, to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in Panama and the United States; to establish procedures governing the submission of a request for any such determination and ensuring appropriate public participation in any such determination; to add to the list of the United States as set forth in Annex 3.25 of the Agreement any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Panama and the United States; or to remove from the list in Annex 3.25 of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

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

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

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

14. Section 202(o)(2)(B)(ii) of the United States-Korea Free Trade Agreement Implementation Act authorizes the President, subject to the consultation and layover provisions of section 104, to proclaim before the end of the 1-year period beginning on the date on which the United States-Korea Free Trade Agreement (the ''Korea FTA'') enters into force, modifications to the HTS to correct any typographical, clerical, or non-substantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 4–A of the Korea FTA). The Korea FTA entered into force on March 15, 2012.

15. A provision in chapter 61 (as included in Annex 4–A of the Korea FTA) contained a clerical error that the United States and Korea have agreed to correct. I have determined that a modification to the HTS is necessary to correct this error and to provide the intended tariff treatment. The requirements of the consultation and layover provisions for the proposed correction of this error were completed on August 17, 2012.

16. Presidential Proclamation 8341 of January 16, 2009, implemented the U.S. tariff commitments under the United States-Peru Trade Promotion Agreement and incorporated by reference Publication 4058 of the U.S. International Trade Commission (the ''Commission''), entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Peru Free Trade Agreement.'' Annex I of Publication 4058 included a technical error that affected the tariff treatment of a good of Peru and omitted cross-references for certain tariff lines. I have determined that modifications to the HTS are necessary to correct this error and omission.

17. Presidential Proclamation 8783 of March 6, 2012, implemented U.S. tariff commitments under the Korea FTA and incorporated by reference Publication 4308 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Korea Free Trade Agreement.'' Annexes I and II to that publication each included a technical error that affected the tariff treatment accorded

to certain goods of Korea. I have determined that a modification to the HTS is necessary to correct these errors.

18. Presidential Proclamation 8818 of May 14, 2012, implemented U.S. tariff commitments under the United States-Colombia Trade Promotion Agreement and incorporated by reference Publication 4320 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Colombia Trade Promotion Agreement.'' Annexes I and II to that publication included technical errors that affected the tariff treatment accorded to certain goods of Colombia and omitted cross-references for certain tariff lines. I have determined that modifications to the HTS are necessary to correct the technical errors and omissions.

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

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

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide certain other treatment to originating goods of Panama for the purposes of the Agreement, and to reflect Panama's removal from the list of beneficiary developing countries under the GSP, and from the list of beneficiary countries under CBERA and CBTPA, the HTS is modified as set forth in Annex I of Publication 4349 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Panama Trade Promotion Agreement,'' which is incorporated by reference into this proclamation.

(2) The modifications to the HTS made in paragraph (1) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex I of Publication 4349.

(3) In order to implement the initial stage of duty elimination provided for in the Agreement and to provide for future staged reductions in duties for originating goods of Colombia for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 4349, effective on the dates specified in the relevant sections of such Annex and on any subsequent dates set forth for such duty reductions in that Annex.

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

(5) The CITA is authorized to exercise the authority of the President under section 203(o)(4) of the Implementation Act to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in Panama and the United States; to establish procedures governing the request for any such determination and ensuring appropriate public participation in any such determination; to add any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Panama and the United States to the list in Annex 3.25 of the Agreement;

or to remove from the list in Annex 3.25 of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

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

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

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

(9) The USTR is authorized to modify U.S. note 4 to subchapter XX of chapter 99 of the HTS in a notice published in the *Federal Register* to reflect modifications pursuant to paragraph (7) of this proclamation by the CITA to the list of fabrics, yarns, or fibers in Annex 3.25 of the Agreement.

(10) In order to provide the intended tariff treatment to goods of Korea under the terms of general note 33, the HTS is modified as set forth in section E of Annex III to Publication 4349.

(11) The modifications to the HTS set forth in section E of Annex III to Publication 4349 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 15, 2012.

(12) In order to provide the intended tariff treatment to certain goods of Peru, U.S. note 28 to subchapter XXII of chapter 98 of the HTS is modified as set forth in section A of Annex III to Publication 4349. In addition with respect to goods of Peru under the terms of general note 32, the HTS is modified as set forth in section D of Annex III to Publication 4349.

(13) The modifications to the HTS set forth in sections A and D of Annex III to Publication 4349 shall be effective with respect to goods of Peru entered, or withdrawn from warehouse for consumption, on or after February 1, 2009.

(14) In order to provide the intended tariff treatment to certain goods of Colombia the HTS is modified as set forth in sections C and D of Annex III to Publication 4349.

(15) The modifications to the HTS set forth in sections C and D of Annex III to Publication 4349 are effective with respect to goods of Colombia entered, or withdrawn from warehouse for consumption, on or after May 15, 2012.

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

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

[FR Doc. 2012–27143
Filed 11–2–12; 11:15 am]
Billing code 3295–F3

Presidential Documents

Notice of November 1, 2012

Continuation of the National Emergency With Respect to Weapons of Mass Destruction

On November 14, 1994, by Executive Order 12938, the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons. On July 28, 1998, the President issued Executive Order 13094 amending Executive Order 12938 to respond more effectively to the worldwide threat of weapons of mass destruction proliferation activities. On June 28, 2005, the President issued Executive Order 13382 which, *inter alia,* further amended Executive Order 12938 to improve our ability to combat proliferation. The proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States; therefore, the national emergency first declared on November 14, 1994, and extended in each subsequent year, must continue. In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 12938, as amended.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
Washington, November 1, 2012.

[FR Doc. 2012–27145
Filed 11–2–12; 11:15 am]
Billing code 3295–F3

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Federal Register

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