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DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

7 CFR Part 3201

RIN 0599–AA16

Designation of Product Categories for Federal Procurement

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is amending the Guidelines for Designating Biobased Products for Federal Procurement, to add eight sections to designate product categories within which biobased products will be afforded Federal procurement preference, as provided for under section 9002 of the Farm Security and Rural Investment Act of 2002, as amended by the Food, Conservation, and Energy Act of 2008 (referred to in this document as ''section 9002''). USDA is also adding a new subcategory to one previously designated product category. USDA is also establishing minimum biobased contents for each of these product categories and subcategories. In addition, USDA is officially changing the term ''item'' to product category.

DATES: This rule is effective May 1, 2013.

FOR FURTHER INFORMATION CONTACT: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024; email: *biopreferred@usda.gov;* phone (202) 205–4008. Information regarding the Federal preferred procurement program (one part of the BioPreferred Program) is available on the Internet at *http://www.biopreferred.gov*.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

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I. Authority

These product categories are designated under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), as amended by the Food, Conservation, and Energy Act of 2008 (FCEA), 7 U.S.C. 8102 (referred to in this document as ''section 9002'').

II. Background

As part of the BioPreferred Program, USDA published, on December 5, 2012, a proposed rule in the **Federal Register** (FR) for the purpose of designating a total of eight product categories, and two new subcategories within previously designated product categories, for the preferred procurement of biobased products by Federal agencies (referred to hereafter in this FR notice as the ''preferred procurement program''). This proposed rule can be found at 77 FR 72654. This rulemaking is referred to in this preamble as Round 10 (RIN 0599–AA16).

In the proposed rule, USDA proposed designating the following eight product categories for the preferred procurement program: Aircraft and boat cleaners; automotive care products; engine crankcase oil; gasoline fuel additives; metal cleaners and corrosion removers; microbial cleaning products; paint removers; and water turbine bearing oils. USDA also proposed to add the following subcategories to previously designated product categories: countertops to the composite panels category; and wheel bearing and chassis grease to the greases category.

Today's final rule designates the proposed product categories within which biobased products will be afforded Federal procurement preference and adds the proposed countertops subcategory to the existing composite panels product category. USDA has determined that each of the product categories being designated under today's rulemaking meets the necessary statutory requirements; that they are being produced with biobased products; and that their procurement will carry out the following objectives of section 9002: to improve demand for biobased products; to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; and to enhance the Nation's energy security by substituting biobased products for products derived from imported oil and natural gas.

When USDA designates by rulemaking a product category (a generic grouping of products) for preferred procurement under the BioPreferred Program, manufacturers of all products under the umbrella of that product category, that meet the requirements to qualify for preferred procurement, can claim that status for their products. To qualify for preferred procurement, a product must be within a designated product category and must contain at least the minimum biobased content established for the designated product category. With the designation of these specific product categories, USDA invites the manufacturers and vendors of qualifying products to provide information on the product, contacts, and performance testing for posting on its BioPreferred Web site, *http://www.biopreferred.gov*. Procuring agencies will be able to utilize this Web site as one tool to determine the availability of qualifying biobased products under a designated product category. Once USDA designates a product category, procuring agencies are required generally to purchase biobased products within the designated product category where the purchase price of the procurement product exceeds $10,000

or where the quantity of such products or of functionally equivalent products purchased over the preceding fiscal year equaled $10,000 or more.

The BioPreferred program started using the term product category in the fall of 2011 while drafting a proposed rule to amend the BioPreferred Program Guidelines (FR DOC # 2012–10420, published May 1, 2012). The preamble to that proposed rule explains the change from ''items'' to ''product categories.'' Below is the text that appears in the proposed rule:

''3. Replacement of ''Designated Item'' with ''Designated Category''

The current guidelines use the term ''designated item'' to refer to a generic grouping of biobased products identified in subpart B as eligible for the procurement preference. The use of this term has created some confusion, however, because the word ''item'' is also used in the guidelines to refer to individual products rather than a generic grouping of products. USDA is proposing to replace the term ''designated item'' with the term ''designated product category.'' In addition, USDA is proposing to add a definition for the term ''qualifying biobased product'' to refer to an individual product that meets the definition and minimum biobased content criteria for a designated product category and is, therefore, eligible for the procurement preference. Although these changes are not required by section 9001 of FCEA, USDA believes the proposed terms and definitions will add clarity to the rule.''

Because USDA did not receive any comments opposing this change during the 60-day comment period on the proposed rule and because it will be some time until the rule is promulgated, USDA is incorporating the new product category language in this designation regulation.

Subcategorization. USDA is subcategorizing three of the product categories. Those product categories are: aircraft and boat cleaners; metal cleaners and corrosion removers; and microbial cleaning products. The subcategories for the aircraft and boat cleaners product category are: aircraft cleaners and boat cleaners. For the metal cleaners and corrosion removers product category, the subcategories are: stainless steel cleaners; other metal cleaners; and corrosion removers. For the microbial cleaning products category, the subcategories are: drain maintenance products; general cleaners; and wastewater maintenance products. USDA is also adding a new subcategory for countertops to the composite panels product category designated in Round 2 (73 FR 27954, May 14, 2008).

USDA will continue to gather additional data related to the categories designated today and additional subcategories may be created in a future rulemaking.

Minimum Biobased Contents. The minimum biobased contents being established with today's rulemaking are based on products for which USDA has biobased content test data. Because the submission of product samples for biobased content testing is on a strictly voluntary basis, USDA was able to obtain samples only from those manufacturers who volunteered to invest the resources required to submit the samples. USDA has, however, begun to receive additional biobased content data associated with manufacturer's applications for certification to use the USDA Certified Biobased Product label. These test results are also considered when determining the minimum biobased content levels for designated product categories.

In today's final rule, the minimum biobased content for the water turbine bearing oils category is based on a single tested product. USDA will continue to gather information on the lubricant product categories designated today and if additional data on the biobased content for products within these designated categories are obtained, USDA will evaluate whether the minimum biobased content should be revised in a future rule. We are also clarifying definitions of water turbine bearing oils versus turbine drip oils.

Overlap with EPA's Comprehensive Procurement Guideline program for recovered content products under the Resource Conservation and Recovery Act (RCRA) Section 6002. This final rule designates one product category for Federal preferred procurement for which there may be overlap with an EPA-designated recovered content product. The product category is engine crankcase oils, which may overlap with the EPA-designated recovered content product ''Re-refined lubricating oils.'' EPA provides recovered materials content recommendations for these recovered content products in Recovered Materials Advisory Notice (RMAN) I. The RMAN recommendations for these CPG products can be found by accessing EPA's Web site *http://www.epa.gov/epaoswer/non-hw/procure/products.htm* and then clicking on the appropriate product name.

Federal Government Purchase of Sustainable Products. The Federal government's sustainable purchasing program includes the following three statutory preference programs for designated products: the BioPreferred Program, the Environmental Protection Agency's Comprehensive Procurement Guideline for products containing recovered materials, and the Environmentally Preferable Purchasing program. The Office of the Federal Environmental Executive (OFEE) and the Office of Management and Budget (OMB) encourage agencies to implement these components comprehensively when purchasing products and services.

Other Preferred Procurement Programs. Federal procurement officials should also note that biobased products may be available for purchase by Federal agencies through the AbilityOne Program (formerly known as the Javits-Wagner-O'Day (JWOD) program). Under this program, members of organizations including the National Industries for the Blind (NIB) and the National Institute for the Severely Handicapped (NISH) offer products and services for preferred procurement by Federal agencies. A search of the AbilityOne Program's online catalog (*www.abilityone.gov*) indicated that products within three of the product categories, or subcategories, being designated today are available through the AbilityOne Program. These are: Composite Panels—Countertops, Metal Cleaners and Corrosion Removers—Stainless Steel Cleaners, and Metal Cleaners and Corrosion Removers—Other Metal Cleaners. While there is no specific product within these product categories identified in the AbilityOne online catalog as being a biobased product, it is possible that such biobased products are available or will be available in the future. Also, because additional categories of products are frequently added to the AbilityOne Program, it is possible that biobased products within other product categories being designated today may be available through the AbilityOne Program in the future. Procurement of biobased products through the AbilityOne Program would further the objectives of both the AbilityOne Program and the preferred procurement program.

Outreach. To augment its own research, USDA consults with industry and Federal stakeholders to the preferred procurement program during the development of the rulemaking packages for the designation of product categories. USDA requests stakeholder input in gathering information used in determining the order of product category designation and in identifying: Manufacturers producing and marketing products that fall within a product category proposed for designation; performance standards used by Federal

agencies evaluating products to be procured; and warranty information used by manufacturers of end user equipment and other products with regard to biobased products.

Future Designations. In making future designations, USDA will continue to conduct market searches to identify manufacturers of biobased products within product categories. USDA will then contact the identified manufacturers to solicit samples of their products for voluntary submission for biobased content testing. Based on these results, USDA will then propose new product categories for designation for preferred procurement.

USDA has developed a preliminary list of product categories for future designation and has posted this preliminary list on the BioPreferred Web site. While this list presents an initial prioritization of product categories for designation, USDA cannot identify with certainty which product categories will be presented in each of the future rulemakings. In response to comments from other Federal agencies, USDA intends to give increased priority to those product categories that contain the highest biobased content. In addition, as the program matures, manufacturers of biobased products within some industry segments have become more responsive to USDA's requests for technical information than those in other segments. Thus, product categories with high biobased content and for which sufficient technical information can be obtained quickly may be added or moved up on the prioritization list.

III. Discussion of Public Comments

Summary of Changes

USDA received comments on wheel bearing and chassis greases, crankcase oils, gasoline fuel additives, and microbial cleaning products.

USDA solicited comments on the proposed rule for 60 days ending on February 4, 2013. USDA received four comments by that date. Two of the comments were from manufacturers of biobased products, one was from another Federal agency, and the fourth was from a trade association. The comments are presented below, along with USDA's responses, and are shown under the product categories to which they apply.

After consideration of the comments, USDA has decided to: (1) Delay the designation of the wheel bearing and chassis greases subcategory; (2) revise the minimum biobased content of the engine crankcase oil product category upward to 27 percent from the proposed level of 18 percent; and (3) add clarification to the definition of the water turbine bearing oils product category. Additional information on these changes is presented below in the discussion of public comments.

Public Comments

General Process Comments

A trade association had a number of comments on how USDA administers the BioPreferred program. This same trade association had also made earlier similar comments July 2, 2012 in response to the proposed amendments to the revised Program Guidelines. The final guidelines have not yet been published. Although we will discuss these process comments herein, USDA will address the comments at a later date in revisions to the Program Guidelines, to which they are directly applicable.

Comment: The trade association focused some ''comments on the environmental elements of the BioPreferred program'' and stated products ''should be designated and preferred based upon their improved health profile, which could include manufacturing improvements, environmental and/or health benefits, and disposal mechanisms.'' The association further commented, that biobased content, ''while a key factor, is only one of many potential environmental considerations.''

Response: Although the BioPreferred program is often associated with environmental programs and biobased products generally offer environmental benefits, USDA is charged with considering products that contain biobased carbon. The program's rationale is to use the purchasing power of the Federal government to pull the market for biobased products that are made from agricultural commodities. USDA does not have the legislative mandate to consider all environmental factors in designating a product category.

Comment: The association is critical of sample sizes and calls for ''more robust'' sample sizes.

Response: This is a voluntary program and USDA cannot collect any more information than companies are willing to provide. Moreover, by law USDA cannot ask biobased companies to supply any more information than non-biobased competitors. It is up to Federal procurement officials to solicit additional information from biobased companies to help in the procurement decision-making process.

Comment: The association calls for USDA to provide more information on ''exclusions'' (i.e., price, performance and availability).

Response: As indicated above, USDA cannot mandate that private companies provide such data. USDA believes consideration of exclusionary factors is a matter to be discussed on a case-by-case basis between buyer and seller.

Comment: Confidential business information (CBI) should not be posted on the BioPreferred Web site.

Response: USDA agrees. USDA does not post CBI.

Comment: One commenter felt USDA was ''accommodating to the less-renewable end of the range'' with an ''orphan data point'' at 21 percent.

Response: USDA appreciates the comment. The commenter notes correctly that 21 percent was on the lower end of the range and USDA agrees that this data point does appear to be an outlier. Thus, we are revising the minimum content to 27 percent, which is the lower end of the mid-range of 30 percent minus the test variability. This revision is only slightly higher than the previously proposed minimum and increasing the minimum biobased content for this category is consistent with the requirement in section 9002 that agencies buy products with the highest practicable percentage of biobased content.

Gasoline Fuel Additives

Comment: One commenter asked that USDA lower the biobased content from 92 percent to 70 percent.

Response: USDA is charged with administrating a program where Federal buyers procure products with the highest biobased content possible that will still deliver performance. In the absence of any technical data to the contrary, we have decided to keep the content level at the proposed level of 92 percent. However, if data can be identified to confirm the content level of 92 percent is not technically effective or necessary, USDA will revisit that content specification in later rulemaking.

Microbial Cleaning Products

Comment: One commenter stated the NAVSEA 6840 (which refers to the U.S. Navy surface ship (non-submarine) authorized chemical cleaning products and dispensing systems) should not be cited as a test method, but simply as a listing of approved products. The commenter further stated it should not necessarily be listed as a general reference because the products listed here are covered by the general exemption of combat related missions.

Response: USDA agrees with the suggestion of the Federal commenter.

Water Turbine Bearing Oils

Comment: One commenter noted that the definition for water turbine bearing oils should be revised to better distinguish this category from the previously designated category, ''turbine drip oils''.

Response: USDA appreciates the clarification and has revised the definition in the final rule to indicate these water turbine bearing oils are used to lubricate bearings of electric power generating water turbines.

Wheel Bearing and Chassis Grease

Comment: One commenter stated that ''the wheel bearing and chassis grease with National Lubricating Grease Institute (NLGI) cannot be reached with a biobased content of 50 percent'' and pointed out that there is a problem meeting the GC ASTM–D–4950 part of the specification because of the high temperature process used to make lithium complex grease. Another commenter asked that USDA not list chassis grease, as there is ''incompatability'' between existing petroleum-based greases and biobased greases.

Response: USDA believes the ASTM issue is a complex one and requires additional technical data. Thus, USDA will not list the subcategory of wheel bearing and chassis grease at this time but will investigate and defer designation to a later round. As regards the incompatibility issue, USDA does not believe potential incompatibility is an appropriate reason to not designate a biobased category or subcategory. If a particular product will not function properly in a certain application, that product will not meet performance requirements and thus need not be shown the procurement preference.

IV. Regulatory Information

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 12866, as supplemented by Executive Order 13563, requires agencies to determine whether a regulatory action is ''significant.'' The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may: ''(1) Have an annual effect on the economy of $100 million or more or adversely 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.''

Today's final rule has been determined by the Office of Management and Budget to be not significant for purposes of Executive Order 12866. We are not able to quantify the annual economic effect associated with today's final rule. As discussed in the preamble to the proposed rulemaking, USDA made extensive efforts to obtain information on the Federal agencies' usage within the eight designated product categories, including their subcategories. These efforts were largely unsuccessful. Therefore, attempts to determine the economic impacts of today's final rule would require estimation of the anticipated market penetration of biobased products based upon many assumptions. In addition, because agencies have the option of not purchasing biobased products within designated product categories if price is ''unreasonable,'' the product is not readily available, or the product does not demonstrate necessary performance characteristics, certain assumptions may not be valid. While facing these quantitative challenges, USDA relied upon a qualitative assessment to determine the impacts of today's final rule. Consideration was also given to the fact that agencies may choose not to procure designated items due to unreasonable price.

1. Summary of Impacts

Today's final rule is expected to have both positive and negative impacts to individual businesses, including small businesses. USDA anticipates that the biobased preferred procurement program will provide additional opportunities for businesses and manufacturers to begin supplying products under the designated biobased product categories to Federal agencies and their contractors. However, other businesses and manufacturers that supply only non-qualifying products and do not offer biobased alternatives may experience a decrease in demand from Federal agencies and their contractors. USDA is unable to determine the number of businesses, including small businesses, that may be adversely affected by today's final rule. The final rule, however, will not affect existing purchase orders, nor will it preclude businesses from modifying their product lines to meet new requirements for designated biobased products. Because the extent to which procuring agencies will find the performance, availability and/or price of biobased products acceptable is unknown, it is impossible to quantify the actual economic effect of the rule.

2. Benefits of the Final Rule

The designation of these eight product categories provides the benefits outlined in the objectives of section 9002; to increase domestic demand for many agricultural commodities that can serve as feedstocks for production of biobased products, and to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities. On a national and regional level, today's final rule can result in expanding and strengthening markets for biobased materials used in these product categories.

3. Costs of the Final Rule

Like the benefits, the costs of today's final rule have not been quantified. Two types of costs are involved: Costs to producers of products that will compete with the preferred products and costs to Federal agencies to provide procurement preference for the preferred products. Producers of competing products may face a decrease in demand for their products to the extent Federal agencies refrain from purchasing their products. However, it is not known to what extent this may occur. Pre-award procurement costs for Federal agencies may rise minimally as the contracting officials conduct market research to evaluate the performance, availability and price reasonableness of preferred products before making a purchase.

B. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601–602, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

USDA evaluated the potential impacts of its designation of these product categories to determine whether its actions would have a significant impact on a substantial number of small entities. Because the preferred procurement program established under section 9002 applies only to Federal

agencies and their contractors, small governmental (city, county, etc.) agencies are not affected. Thus, the final rule will not have a significant economic impact on small governmental jurisdictions.

USDA anticipates that this program will affect entities, both large and small, that manufacture or sell biobased products. For example, the designation of product categories for preferred procurement will provide additional opportunities for businesses to manufacture and sell biobased products to Federal agencies and their contractors. Similar opportunities will be provided for entities that supply biobased materials to manufacturers.

The intent of section 9002 is largely to stimulate the production of new biobased products and to energize emerging markets for those products. Because the program is still in its infancy, however, it is unknown how many businesses will ultimately be affected. While USDA has no data on the number of small businesses that may choose to develop and market biobased products within the product categories designated by this rulemaking, the number is expected to be small. Because biobased products represent a small emerging market, only a small percentage of all manufacturers, large or small, are expected to develop and market biobased products. Thus, the number of small businesses manufacturing biobased products affected by this rulemaking is not expected to be substantial.

The Federal preferred procurement program may decrease opportunities for businesses that manufacture or sell non-biobased products or provide components for the manufacturing of such products. Most manufacturers of non-biobased products within the product categories being proposed for designation for Federal preferred procurement in this rule are expected to be included under the following NAICS codes: 321999 (all other wood product manufacturing), 324191 (petroleum lubricating oil and grease manufacturing), 325510 (paint and coating manufacturing), and 325612 (polish and other sanitation goods manufacturing). USDA obtained information on these four NAICS categories from the U.S. Census Bureau's Economic Census database. USDA found that the Economic Census reports about 4,270 companies within these 4 NAICS categories and that these companies own a total of about 4,860 establishments. Thus, the average number of establishments per company is about 1.14. The Census data also reported that of the 4,860 individual establishments, about 4,850 (99 percent) have fewer than 500 employees. USDA also found that the overall average number of employees per company among these industries is about 30 and that the petroleum lubricating oil and grease industry has the highest average number of employees per company with an average of almost 50. Thus, nearly all of the businesses fall within the Small Business Administration's definition of a small business (less than 500 employees, in most NAICS categories).

USDA does not have data on the potential adverse impacts on manufacturers of non-biobased products within the product categories being designated, but believes that the impact will not be significant. Most of the product categories being designated in this rulemaking are typical consumer products widely used by the general public and by industrial/commercial establishments that are not subject to this rulemaking. Thus, USDA believes that the number of small businesses manufacturing non-biobased products within the product categories being designated and selling significant quantities of those products to government agencies affected by this rulemaking will be relatively low. Also, this final rule will not affect existing purchase orders and it will not preclude procuring agencies from continuing to purchase non-biobased products when biobased products do not meet the availability, performance, or reasonable price criteria. This final rule will also not preclude businesses from modifying their product lines to meet new specifications or solicitation requirements for these products containing biobased materials.

After considering the economic impacts of this final rule on small entities, USDA certifies that this action will not have a significant economic impact on a substantial number of small entities.

While not a factor relevant to determining whether the final rule will have a significant impact for RFA purposes, USDA has concluded that the effect of the rule will be to provide positive opportunities to businesses engaged in the manufacture of these biobased products. Purchase and use of these biobased products by procuring agencies increase demand for these products and result in private sector development of new technologies, creating business and employment opportunities that enhance local, regional, and national economies.

C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This final rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

D. Executive Order 12988: Civil Justice Reform

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule does not preempt State or local laws, is not intended to have retroactive effect, and does not involve administrative appeals.

E. Executive Order 13132: Federalism

This final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this final rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

F. Unfunded Mandates Reform Act of 1995

This final rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

G. Executive Order 12372: Intergovernmental Review of Federal Programs

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Today's final rule does not significantly or uniquely affect ''one or more Indian tribes, * * * the relationship between the Federal Government and Indian tribes, or * * * the distribution of power and responsibilities between the Federal Government and Indian tribes.'' Thus, no further action is required under Executive Order 13175.

I. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under this final rule is currently approved under OMB control number 0503–0011.

J. E-Government Act Compliance

USDA is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. USDA is implementing an electronic information system for posting information voluntarily submitted by manufacturers or vendors on the products they intend to offer for preferred procurement under each designated product category. For information pertinent to E-Government Act compliance related to this rule, please contact Ron Buckhalt at (202) 205–4008.

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, that includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. USDA has submitted 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**.

List of Subjects in 7 CFR Part 3201

Biobased products, Procurement.

For the reasons stated in the preamble, the Department of Agriculture is amending 7 CFR chapter XXXII as follows:

PART 3201—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT

■ 1. The authority citation for part 3201 continues to read as follows:

Authority: 7 U.S.C. 8102.

■ 2. Amend § 3201.19 by adding new paragraphs (a)(6) and (b)(6) and revising paragraph (c) to read as follows:

§ 3201.19 Composite panels.

(a) * * *

(6) *Countertops.* Engineered products designed to serve as horizontal work surfaces in locations such as kitchens, break rooms or other food preparation areas, bathrooms or lavatories, and workrooms.

(b) * * *

(6) Countertops—89 percent.

(c) *Preference compliance dates.* (1) No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for those qualifying biobased composite panels specified in paragraphs (a)(1) through (a)(5) of this section. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased composite panels.

(2) No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for those qualifying biobased composite panels specified in paragraph (a)(6) of this section. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased composite panels.

* * * * *

■ 3. Add §§ 3201.100 through 3201.107 to subpart B to read as follows:

Sec.
3201.100 Aircraft and boat cleaners.
3201.101 Automotive care products.
3201.102 Engine crankcase oil.
3201.103 Gasoline fuel additives.
3201.104 Metal cleaners and corrosion removers.
3201.105 Microbial cleaning products.
3201.106 Paint removers.
3201.107 Water turbine bearing oils.

§ 3201.100 Aircraft and boat cleaners.

(a) *Definition.* (1) Aircraft and boat cleaners are products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of aircraft and/or boats.

(2) Aircraft and boat cleaners for which Federal preferred procurement applies are:

(i) *Aircraft cleaners.* Cleaning products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of aircraft.

(ii) *Boat cleaners.* Cleaning products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of boats.

(b) *Minimum biobased content.* The minimum biobased content for all aircraft and boat cleaners shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) *Aircraft cleaners*—48 percent.

(2) *Boat cleaners*—38 percent.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased aircraft and boat cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased aircraft and boat cleaners.

§ 3201.101 Automotive care products.

(a) *Definition.* Products such as waxes, buffing compounds, polishes, degreasers, soaps, wheel and tire cleaners, leather care products, interior cleaners, and fragrances that are formulated for cleaning and protecting automotive surfaces.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 75 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased automotive care products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased automotive care products.

§ 3201.102 Engine crankcase oils.

(a) *Definition.* Lubricating products formulated to provide lubrication and wear protection for four-cycle gasoline or diesel engines.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 27 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased engine crankcase oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to

be procured shall ensure that the relevant specifications require the use of biobased engine crankcase oils.

(d) *Determining overlap with an EPA-designated recovered content product.* Qualifying products within this item may overlap with the EPA-designated recovered content product: Re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oil products and which product should be afforded the preference in purchasing.

Note to paragraph (d): Engine crankcase oils within this designated product category can compete with similar re-refined lubricating oil products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oil products containing recovered materials as products for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.17.

§ 3201.103 Gasoline fuel additives.

(a) *Definition.* Chemical agents added to gasoline to increase octane levels, improve lubricity, and provide engine cleaning properties to gasoline-fired engines.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 92 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased gasoline fuel additives. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased gasoline fuel additives.

§ 3201.104 Metal cleaners and corrosion removers.

(a) *Definition.* (1) Products that are designed to clean and remove grease, oil, dirt, stains, soils, and rust from metal surfaces.

(2) Metal cleaners and corrosion removers for which Federal preferred procurement applies are:

(i) *Corrosion removers.* Products that are designed to remove rust from metal surfaces through chemical action.

(ii) *Stainless steel cleaners.* Products that are designed to clean and remove grease, oil, dirt, stains, and soils from stainless steel surfaces.

(iii) *Other metal cleaners.* Products that are designed to clean and remove grease, oil, dirt, stains, and soils from metal surfaces other than stainless steel.

(b) *Minimum biobased content.* The minimum biobased content for all metal cleaners and corrosion removers shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) *Corrosion removers*—71 percent.

(2) *Stainless steel cleaners*—75 percent.

(3) *Other metal cleaners*—56 percent.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased metal cleaners and corrosion removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased metal cleaners and corrosion removers.

§ 3201.105 Microbial cleaning products.

(a) *Definition.* (1) Cleaning agents that use microscopic organisms to treat or eliminate waste materials within drains, plumbing fixtures, sewage systems, wastewater treatment systems, or on a variety of other surfaces. These products typically include organisms that digest protein, starch, fat, and cellulose.

(2) Microbial cleaning products for which Federal preferred procurement applies are:

(i) *Drain maintenance products.* Products containing microbial agents that are intended for use in plumbing systems such as sinks, showers, and tubs.

(ii) *Wastewater maintenance products.* Products containing microbial agents that are intended for use in wastewater systems such as sewer lines and septic tanks.

(iii) *General cleaners.* Products containing microbial agents that are intended for multi-purpose cleaning in locations such as residential and commercial kitchens and bathrooms.

(b) *Minimum biobased content.* The minimum biobased content for all microbial cleaning products shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) *Drain maintenance products*—45 percent.

(2) *Wastewater maintenance products*—44 percent.

(3) *General cleaners*—50 percent.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased microbial cleaning products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased microbial cleaning products.

§ 3201.106 Paint removers.

(a) *Definition.* Products formulated to loosen and remove paint from painted surfaces.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 41 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased paint removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased paint removers.

§ 3201.107 Water turbine bearing oils.

(a) *Definition.* Lubricants that are specifically formulated for use in the bearings found in water turbines for electric power generation. Previously designated turbine drip oils are used to lubricate bearings of electric power generating water turbines.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 46 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than April 1, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased water turbine bearing oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased water turbine bearing oils.

Dated: March 25, 2013.

Gregory L. Parham,

Acting Assistant Secretary For Administration, U.S. Department of Agriculture.

[FR Doc. 2013–07336 Filed 3–29–13; 8:45 am]

BILLING CODE 3410–93–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1292

[Docket No. EOIR 138F; A.G. Order No. 3377–2013]

RIN 1125–AA39

Registry for Attorneys and Representatives

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule; request for comments.

SUMMARY: This final rule adopts, as amended, the proposed rule to authorize the Director of the Executive Office for Immigration Review (EOIR), or his designee, to register attorneys and accredited representatives as a condition of practicing before immigration judges and the Board of Immigration Appeals (Board or BIA). The final rule provides that the Director may establish registration procedures, including a requirement for electronic registration, and may administratively suspend from practice before EOIR any attorney or accredited representative who fails to provide certain registration information. This rule is part of an initiative to create an electronic case access and filing system within EOIR. The Department of Justice (Department) will publish a notice in the **Federal Register** prior to implementing the registration process. Although this rule is published as a final rule, post-promulgation public comments will be considered as EOIR moves forward with other phases of its electronic access and filing initiative.

DATES: *Effective date:* This rule is effective May 31, 2013. *Comment date:* Written comments must be submitted on or before May 31, 2013.

ADDRESSES: You may submit comments, identified by EOIR Docket No. 138F, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.
- *Mail:* Jeff Rosenblum, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041. To ensure proper handling, please reference EOIR Docket No. 138F on your correspondence. You may also use this mailing address to submit disks or CD–ROMs.
- *Hand Delivery/Courier:* Jeff Rosenblum, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041. Contact Telephone Number (703) 305–0470.

FOR FURTHER INFORMATION CONTACT: Jeff Rosenblum, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone (703) 305–0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

On December 30, 2003, the Department published in the **Federal Register** a proposed rule that would establish a registry of attorneys and representatives who practice before EOIR. 68 FR 75160. The comment period ended March 1, 2004. The Department received seven letters from organizations and individuals, including the American Immigration Lawyers Association, several law school clinical programs, and two attorneys. Because some comments overlap and all of the commenters raised multiple subjects, the comments are addressed below by topic rather than by reference to a specific commenter. The changes to the proposed regulatory text made in response to public comments are addressed below. With the exception of the additional changes explained below, all other provisions of the proposed rule on which the public did not comment are adopted without change in this final rule.

As described further below, EOIR regards this rule as an initial step in a multi-year, multi-phased initiative to make the transition to an electronic case access and filing system. Therefore, EOIR will accept post-promulgation comments regarding this rule and will consider them as it moves forward with its initiative.

II. Regulatory Background

This rule amends 8 CFR part 1292 by revising § 1292.1(a)(1) and (a)(4), and by establishing a new paragraph at § 1292.1(f).[1] These amendments provide the Director of EOIR with the authority to require attorneys and accredited representatives to register with EOIR in order to practice before its immigration judges and the Board.[2] The rule specifies the information that attorneys and accredited representatives will need to provide to EOIR when registering. The Director will require that attorneys and accredited representatives register through electronic means.[3]

EOIR is permitted to authorize individuals to practice in proceedings before immigration judges and the Board. *See* 8 U.S.C. 1229a(b)(4)(A) and 8 CFR part 1292. Pursuant to this final rule, attorneys and accredited representatives will need to register in order to be authorized to practice before EOIR. If an attorney or accredited representative who has cases pending with EOIR when this final rule takes effect fails to register by the deadline for registering, EOIR may administratively suspend that individual from practice.[4] An attorney or accredited representative

[1] As noted below, EOIR will publish a notice in the **Federal Register** specifying the date on which attorneys and accredited representatives will first be able to register and the date by which attorneys and accredited representatives must register. The final rule revises slightly the proposed rule's amendments to 8 CFR 1292.1(a)(1) and (a)(4) to clarify that EOIR will not require attorneys and accredited representatives to register by the effective date of this rule. Instead, EOIR will publish further implementation guidance in the **Federal Register**.

[2] For purposes of this rule, the term ''attorney'' refers to any individual meeting the definition of ''attorney'' in 8 CFR 1001.1(f), except any attorney who represents the Federal Government before EOIR. The term ''accredited representative'' refers only to an accredited representative who is accredited to appear before EOIR. *See* 8 CFR 1292.2(d). The provisions of this rule do not apply to accredited representatives who are only accredited to appear before the Department of Homeland Security. *See id.*

[3] As part of the registration process, attorneys and accredited representatives will be required to attest to the accuracy of the data they are submitting electronically.

[4] If an attorney or accredited representative cannot appear at a hearing because he or she has failed to register, the immigration judge has the means available to avoid prejudice to the alien's case, which might include granting one-time permission for the attorney or accredited representative to appear in the case prior to registering, as discussed below, or a continuance under the applicable case law.

subject to administrative suspension will be able to resume practicing before EOIR upon his or her completion of the registration process. While administrative suspension, on its own, is not disciplinary in nature, multiple attempts by an unregistered attorney or accredited representative to appear before EOIR may result in disciplinary sanctions. Any individual meeting the definition of ''attorney'' in 8 CFR 1001.1(f) (other than one who represents the Federal Government) or the definition of ''representative'' in 8 CFR 1001.1(j) is subject to disciplinary sanctions for misconduct, even if the individual is not registered. *See* 8 CFR 1003.101(b).

The requirement that attorneys and accredited representatives register with EOIR is part of an initiative to create an electronic case access and filing system within EOIR. The Government Paperwork Elimination Act (GPEA), Public Law 105–277, tit. XVII, section 1704, 112 Stat. 2681, 2681–750 (Oct. 21, 1998), 44 U.S.C. 3504 note, provides that, when practicable, Federal agencies will provide for the electronic submission of information. As an initial step in the process of creating an electronic filing system, EOIR must register attorneys and accredited representatives.

When an attorney or accredited representative registers, he or she will create a unique UserID and password for online access to the registry, and EOIR will assign a unique EOIR identification number (EOIR ID number) to each registrant.[5] The EOIR ID number will ensure that each attorney and accredited representative will be specifically identified in the electronic case filing system with his or her registration information. Currently, the Board and each immigration court assign a three-character identifier to attorneys and accredited representatives appearing before them for use in EOIR's case tracking system. As a result, EOIR could have multiple identifiers for the same attorney or accredited representative in different courts, and different attorneys and accredited representatives may have the same identifiers in different courts. This decentralized structure is inadequate for the electronic case filing system that EOIR intends to establish.

Through the registration process, EOIR will ensure that each attorney or accredited representative will be individually identified and associated with the registration information that the attorney or accredited representative will provide during registration. This will reduce errors concerning an attorney's or accredited representative's correct mailing address and avoid confusion as to who is representing a particular alien.[6] Further, registered attorneys and accredited representatives will be able to access the registry with their unique UserIDs and passwords to update their registration information online and, in the future, to access EOIR's electronic filing system.[7]

III. Registration

Following the promulgation of this final rule, EOIR intends to require all attorneys and accredited representatives who practice before immigration judges or the Board to register online. EOIR will require that attorneys and accredited representatives provide the following information when registering: full name; date of birth; business address(es); business telephone number(s); email address; bar admission information (for attorneys);[8] and recognized organization (for accredited representatives).[9]

As noted above, EOIR will require an attorney or accredited representative to create a unique UserID and password for online access to the registry. Prior to approving a registry account and issuing an EOIR ID, EOIR will also require a registry applicant to present photo identification in person, so that the applicant's identity can be validated. EOIR does not anticipate that the in-person presentation requirement will be unduly burdensome. Applicants for registration will be able to present their identification at any immigration court or at the Board's Office of the Clerk. In addition, EOIR anticipates that applicants may be able to present their identification at other locations where EOIR hearings are conducted, including those where hearings are conducted by video conference. Before the registration requirement takes effect, EOIR will issue additional information on its Web site regarding the locations at which registry applicants will be able to present their identification.

EOIR will include this online registration requirement consistent with mandatory guidance published by the Office of Management and Budget (OMB), which ''requires agencies to review new and existing electronic transactions to ensure that authentication processes provide the appropriate level of assurance.''[10] Once registered, attorneys and accredited representatives will receive online access to sensitive information—specifically, personally identifiable information.[11] Initially, registered attorneys and accredited representatives may have online access to clients' names and addresses. In the future, once EOIR's electronic filing system is introduced, registered attorneys and accredited representatives will have online access to clients' court files, which often include additional sensitive information such as asylum applications, records of criminal convictions, and financial and medical records.

Applying the standards set forth in the OMB guidelines, EOIR has determined that the potential impact of the unauthorized release of the sensitive information described above is moderate, as the unauthorized release of information such as an individual's address, asylum application, records of criminal convictions, financial records, or medical records ''could be expected to have a serious adverse effect'' on the person involved.[12] The OMB guidelines

[5] The notice of proposed rulemaking indicated that EOIR would issue UserIDs to registrants. *See* 68 FR 75161. However, since the time of publication, application design and security standards have evolved, and it is now preferred that individual applicants select their own UserID and password to create online accounts.

[6] EOIR intends to issue in a **Federal Register** notice guidance, as needed, to be followed when an attorney or accredited representative seeks to change his or her address.

[7] EOIR will not require an attorney or accredited representative to include his or her online UserID on Form EOIR–27 and Form EOIR–28, as originally stated in the notice of proposed rulemaking, but instead EOIR will require each registrant to include his or her assigned, unique EOIR ID number on these forms.

[8] Specifically, all attorneys will be required to list their state bar membership(s) as part of the online registration. An attorney who is a member of a state bar association that issues bar numbers will also be required to list his or her bar number(s) while registering.

[9] In the notice of proposed rulemaking, EOIR indicated that it may request that accredited representatives indicate the recognized organization with which they are affiliated. In this final rule, EOIR has decided to require that an accredited representative indicate the recognized organization(s) with which they are affiliated. This is consistent with the regulatory requirement that all accredited representatives must be affiliated with an organization that has received recognition by the Board pursuant to 8 CFR 1292.2(a).

[10] *See* OMB Memorandum to the Heads of all Departments and Agencies, *E-Authentication Guidance for Federal Agencies,* Dec. 16, 2003, section 1.1, at *http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy04/m04-04.pdf.*

[11] Personally identifiable information is ''information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.'' OMB Memorandum for the Heads of Executive Departments and Agencies, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information,* May 22, 2007, at 1 n. 1, at *http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf.*

[12] OMB guidance states that the potential impact of an unauthorized release of sensitive information

Continued

require that, where the potential impact of the unauthorized release of sensitive information is moderate, there must exist a ''[h]igh confidence in the asserted identity's validity'' in order for an individual to access government services online.[13] EOIR's requirement that applicants present photo identification in person will provide EOIR with a high degree of confidence in a registering attorney's or accredited representative's identity, and therefore meets the standards of the OMB guidelines.

This validation requirement replaces the requirement in the proposed rule that each registry applicant enter the last four digits of his or her Social Security number. *See* 68 FR 75162. EOIR notes that online security standards have evolved since the proposed rule was published in 2003, and EOIR believes that the proposed rule's procedures for registration and validation of identity, while sufficient then, would not comply with current security standards. Further, OMB has broadly directed agencies to reduce their collection of social security numbers.[14]

EOIR is implementing this requirement that a registry applicant validate his or her identity by presenting photo identification as a final rule, because this validation method is a logical outgrowth of the requirement in the proposed rule that an applicant submit the last four digits of his or her social security number. *See, e.g., Environmental Defense Center* v. *U.S. E.P.A.,* 344 F.3d 832, 852 (9th Cir. 2003); *American Water Works Ass'n* v. *E.P.A.,* 40 F.3d 1266, 1274 (D.C. Cir. 1994). Both requirements represent means of validating an applicant's identity before registration is permitted; the final rule simply changes how the applicant's identity is validated. An interested party should have anticipated that the final rule would continue to contain a validation requirement involving personally identifiable information. *See Environmental Defense Center,* 344 F.3d at 851 (stating that ''[i]n determining whether notice was adequate [where a final rule differs from a proposed rule], we consider whether the complaining party should have anticipated that a particular requirement might be imposed''). Although, under the final rule, an attorney or accredited representative must validate his or her identity in person, EOIR does not believe that the requirement will impose a significant burden on applicants. As noted above, applicants will be able to present their identification at any immigration court and at the Board's Office of the Clerk, and EOIR anticipates that applicants may also be able to present their identification at other locations where EOIR hearings are conducted, including those where hearings are conducted by video.

The notice of proposed rulemaking also indicated that EOIR would request, but not require, an email address during the registration process. However, in the years since the proposed rule was published, Internet connectivity has become extremely common and, for the legal profession, a necessity. In recognition of the widespread use of Internet connected computers and other devices, this final rule requires that attorneys and accredited representatives who register provide an email address. Further, EOIR must obtain an email address for each attorney and accredited representative in order to send case-related notices to them electronically. The ability to do this is essential to implement the electronic filing system that EOIR intends to establish in the future. Given the wide availability and use of the Internet in the legal profession, the provision in the final rule requiring an email address during the registration process does not impose a significant burden on applicants and does not constitute a significant change to the proposed rule.

Prior to implementing the registration process, the Department will publish a notice in the **Federal Register** that provides the date on which registration will commence, the date by which all attorneys or accredited representatives must register, and instructions for registering.

IV. Responses to Comments

Comment. One commenter questioned the utility of an attorney registry. The commenter stated that registration would constitute an unnecessary burden on attorneys because the requested information would be duplicative of that requested in Form EOIR–27 and Form EOIR–28 (Notice of Appearance). The commenter also suggested that EOIR require registration only for those persons who wish to participate in an electronic filing system.

Response. As explained above, the requirement that attorneys and accredited representatives register with EOIR is part of an initiative to create an electronic case access and filing system pursuant to the GPEA. EOIR must register attorneys and accredited representatives as an initial step in the process of creating an electronic filing system.

Registration will primarily consist of providing, through an EOIR Web page, the information described in the regulation and presenting photo identification in person, so that the registry applicant's identity can be validated. This process is free and relatively simple. The information collected will be different, in part, from that requested in Form EOIR–27 and Form EOIR–28 and will consist of the applicant's name, business address(es), business telephone number(s), date of birth, email address, bar admission information (if applicable), and recognized organization (if applicable). As discussed below, the collected information will be used to approve a unique UserID and password created by each registrant that will permit access to the registry and, in the future, access to EOIR's electronic filing system. Also, EOIR will assign each registrant a unique EOIR ID number and require that the registrant include this EOIR ID number on any Form EOIR–27 or Form EOIR–28 he or she files with EOIR. In accordance with the Paperwork Reduction Act, the Department is republishing in this rule the new information collection, previously published in the 2003 proposed rule, in order to obtain additional comments from the public and affected agencies.

The Department notes that the registration of attorneys and accredited representatives will benefit both EOIR and the registrants. The registry will ensure that each attorney or accredited representative is individually and uniquely identified and associated with the registration information that the attorney or accredited representative will provide during registration. This will increase efficiency by reducing system errors in scheduling matters and providing improved notice to attorneys and accredited representatives. Further, registration will ultimately enable an electronic filing system that will reduce

is moderate if, ''at worst, a release of personal * * * information to unauthorized parties result[s] in a loss of confidentiality with a moderate impact as defined in [the Federal Information Processing Standards Publication 199 [FIPS PUB 199], *Standards for Security Categorization of Federal Information and Information Systems*].'' OMB Memorandum, *supra* note 10, section 2.2. In turn, FIPS PUB 199 states that the potential impact of a breach of security is moderate if ''[t]he loss of confidentiality * * * could be expected to have a serious adverse effect on * * * individuals.'' FIPS PUB 199, Feb. 2004, p. 2, at *http://csrc.nist.gov/publications/fips/fips199/FIPS-PUB-199-final.pdf.*

[13] OMB Memorandum, *supra* note 10, section 2.1, 2.2.

[14] *See* OMB Memorandum, *supra* note 11, at 7 (stating that ''[a]gencies must now * * * review their use of social security numbers in agency systems and programs to identify instances in which collection or use of the social security number is superfluous,'' and that ''[a]gencies must participate in government-wide efforts to explore alternatives to agency use of Social Security Numbers as a personal identifier for both Federal employees and in Federal programs'').

the time and expense presently incurred with paper filings.

Such an electronic filing system will also lead to automation of EOIR's case management system and bring greater efficiency to EOIR's handling of cases. In order to yield significant benefit from electronic filing, EOIR must include all attorneys and accredited representatives who appear before it. Therefore, attorneys and accredited representatives will be required to participate.

Comment. One commenter expressed concern that the online registration process would be complicated for users. The commenter noted that attorneys who practice before EOIR have varied computer skills.

Response. The Department appreciates the concerns expressed by the commenter. EOIR intends to create a user-friendly online registry and instructions for usage. As discussed previously, significant changes have occurred in the use of computers and the Internet since publication of the proposed rule. Computer usage and Internet access have become extremely common and a necessary aspect of the practice of law, including for the purposes of legal research and electronically filing documents with many courts. Therefore, the commenter's concerns regarding the computer skills of attorneys or accredited representatives are less pertinent now than they were at the time of the comment in 2004.

Comment. Two commenters expressed concerns about the proposal to place a ''Practitioner Workstation'' in each immigration court and at the Board to facilitate registration for attorneys and accredited representatives who did not have access to the Internet. One of the commenters noted that workstations would be costly to taxpayers, while another thought that maintaining a workstation at each court would be too burdensome.

Response. The notice of proposed rulemaking stated that EOIR would provide a ''Practitioner Workstation'' in each immigration court and at the Board in order to allow attorneys and accredited representatives to register electronically. As noted above, in the time that has elapsed since publication of the proposed rule, Internet access has become extremely common, and a necessity for the practice of law. Most representatives have access to the Internet at home or work. Therefore, the Department does not believe that dedicated workstations are necessary at this time and cannot justify the expense of maintaining them. Accordingly, the final rule does not provide for EOIR to set up dedicated workstations at its immigration courts or offices. EOIR recognizes that, without such workstations, an unregistered attorney or accredited representative may not be able to register ''immediately'' after a hearing at which he or she is permitted to appear, as contemplated by the proposed rule. Therefore, EOIR has revised the language in the final rule to indicate that an unregistered attorney or accredited representative who is permitted to appear at a hearing must register ''without delay.''

Comment. One commenter stated that the registration system should be designed to permit an unregistered attorney to appear at a hearing in the place of the attorney of record in a case without having to register.

Response. The final rule provides that an ''immigration judge may, under extraordinary and rare circumstances, permit an unregistered attorney or accredited representative to appear at one hearing if the immigration judge first acquires from the attorney or accredited representative, on the record, the required registration information.'' [15] This one-time exception to the registration requirement permits a single appearance by an unregistered attorney, or accredited representative at one hearing.[16] The hearing may be a master calendar, individual, custody or any other type of hearing. Such permission, if granted, would allow an unregistered attorney or accredited representative to, for example, ''fill in'' for an attorney of record prior to completing the registration process. However, the final rule also requires the unregistered attorney or accredited representative to complete the registration process without delay after the hearing.

The Department believes that this provision is appropriate. It not only provides an opportunity for an unregistered attorney or accredited representative to appear when extraordinary and rare circumstances are present, but also ensures that the attorney or accredited representative will be properly registered in case he or she needs to appear before EOIR in the future. Such an approach maintains the integrity of the registry while providing flexibility when necessary. Registration is not burdensome because it is free and relatively simple.

Comment. One commenter stated that an immigration judge should not be authorized to permit an unregistered attorney to appear at a single hearing. The commenter was concerned that immigration courts may lack the ability to track and enforce the provision that an unregistered attorney will only be permitted to appear at one hearing until he or she is registered.

Response. While the Department appreciates the commenter's concern, the Department believes that it is necessary to provide immigration judges with the discretion to permit a single appearance by an unregistered attorney or accredited representative when circumstances warrant. This provision safeguards the right of aliens to be represented by counsel of their choice and may avoid unnecessary delays. If an unregistered attorney or accredited representative appears at a hearing and fails to complete the registration process after the hearing, that attorney or accredited representative would not be eligible to appear again until he or she registers, and EOIR may also consider whether additional sanctions might be appropriate under the circumstances.

Comment. One commenter raised a number of concerns about the impact of the registry on individual immigration cases. The commenter believed that registration would preclude multiple attorneys from representing the same alien and that EOIR should permit multiple attorneys to appear in the same case. The commenter also expressed concern that an attorney who leaves a law firm can simply change his or her address in the registry without informing the law firm, presumably to take cases belonging to the law firm to another practice. Further, the commenter cautioned that EOIR needed to safeguard against a situation in which an accredited representative leaves the employ of a recognized organization before completing representation on all cases in which the accredited representative entered an appearance. Finally, the commenter suggested that when EOIR issues electronic notices, it should: transmit all notices to all attorneys of record on a case; provide by

[15] The one-time exception applies only to ''one hearing'' before an immigration judge. Note that generally, the Board decides appeals by conducting a paper review of cases, and only rarely holds oral argument. Because the immigration courts regularly hold courtroom proceedings and the Board rarely holds oral argument where attorneys or accredited representatives appear in person, the final rule provides that only an immigration judge may grant a one-time exception to allow an unregistered practitioner to appear.

[16] ''One hearing'' means a single appearance by an attorney or accredited representative on behalf of a respondent(s) in a single case. This means that, for example, if an unregistered attorney or accredited representative is permitted under the one-time exception to appear on behalf of a respondent at a master calendar hearing, the attorney or accredited representative must register before representing any additional respondents appearing in different cases at that court session. In exceptional circumstances, in order to avoid prejudice or delay to other scheduled cases, ''one hearing'' may include an attorney or accredited representative appearing on behalf of more than one respondent at the same court session.

regular mail a copy of any notice sent electronically; and send a copy of all electronically served notices to a represented alien's email address. A different commenter wanted EOIR to ensure that all correspondence from EOIR will be sent to the attorney of record on a particular case, even if another attorney ''filled in'' for the attorney of record at a hearing.

Response. The registry will not change EOIR's current policies or practices regarding representation. For example, multiple attorneys or accredited representatives will continue to be permitted to appear simultaneously in a case before the immigration court, subject to conditions, and the immigration court will continue to send correspondence to the attorney or accredited representative of record, and not to any other attorney or representative who ''filled in'' for him or her. As the Board only recognizes one attorney or accredited representative of record, the Board will also only send correspondence to the attorney or accredited representative of record. In addition, the registry will not change EOIR's regulations providing that individual attorneys or accredited representatives, as opposed to law firms or recognized organizations, represent respondents. *See* 8 CFR 1292.1, 1292.4(a). If an attorney changes firms and notifies EOIR of his or her address change, he or she remains the attorney of record, absent the immigration judge or Board granting a request for withdrawal or substitution. *See* 8 CFR 1003.17(b). Similarly, if an accredited representative leaves a recognized organization, and notifies EOIR of his or her accreditation with another recognized organization, he or she remains the representative of record, absent the immigration judge or Board granting a request for withdrawal or substitution. *See id.*

If EOIR requires mandatory electronic filing in the future, it will issue a notice of proposed rulemaking on that subject, providing an opportunity to consider issues that may arise in individual cases due to such a system. The Department will consider such comments when determining how to establish an electronic filing system.

Comment. One commenter expressed concern regarding attorneys who may appear at hearings on behalf of a number of different law offices. The commenter stated that attorneys ''who appear as 'Of Counsel' to other attorneys in particular cases, might find themselves unnecessarily subject to sanctions or other punishment simply because the nature of their practice requires them to handle cases on behalf of a number of different law firms.''

Response. Under the contemplated registration process, EOIR intends to require all attorneys and accredited representatives to register electronically. The fact that an individual attorney may handle cases on behalf of a number of different law offices will not be problematic under the registration process, as the registry will permit an individual attorney or accredited representative to enter multiple addresses.

Comment. Two commenters, representing several law school clinical programs, suggested that law school clinics should be able to register as entities in lieu of registering individual law students. They stated that permitting clinics to register as entities would make sense in light of the high turnover rate of law students and the close supervision that the law students receive by the faculty member who runs the clinic. Both commenters asserted that registering the clinic, not the individual student, would improve notice and accountability, and would increase efficiency by limiting any complications that may arise when cases are transferred between students when they leave the clinic. One of the commenters also expressed concern that registered law students may use that registration to represent aliens without the clinic's oversight. The other commenter noted that while an individual student should not be able to register, he or she should continue to be able to enter a notice of appearance in his or her own name.

Response. The Department agrees with the commenters that law students should not be required to register with EOIR. The Department believes that, given the transient nature of law students' participation in clinical programs and the limited circumstances under which students can represent individuals before EOIR, it would be overly burdensome to require students to register. Specifically, it would be impractical to design a system under which a student's registration expired when he or she left a clinical program, particularly given the absence of any mechanism to inform EOIR when a student leaves a program. Further, there is no regulatory provision permitting a law student to appear before EOIR if not enrolled in a ''legal aid program or clinic,'' and it would be problematic for those students to remain registered after leaving a clinical program. *See* 8 CFR 1292.1(a)(2)(ii) (stating, among other requirements, that a law student must be participating ''in a legal aid program or clinic conducted by a law school or non-profit organization''). For these reasons, under the final rule, law students will not be required to register with EOIR. This rule will not affect the ability of a law student to enter an appearance in his or her own name pursuant to 8 CFR 1292.1(a)(2).

The Department does not adopt the commenters' suggestion that EOIR register law school clinic programs. EOIR's long-standing policy has been to only recognize individuals, and not entities, as representatives. *See* 8 CFR 1292.1, 1292.4(a). Entities, unlike attorneys or accredited representatives, are not subject to disciplinary sanctions for violations of the Department's regulations. *See* 8 CFR 1003.101(b). Therefore, EOIR would have difficulty regulating the conduct of entities if they were registered as the official representative on a case. With respect to commenters' concerns regarding accountability in cases handled by law students, the Department notes that law students' appearances are governed by detailed regulations intended to ensure that the students receive adequate supervision. Specifically, to appear before EOIR, a law student must file a statement indicating, in part, ''that he or she is participating, under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic.'' 8 CFR 1292.1(a)(2)(ii). The adjudicator must expressly permit the student to appear, and the adjudicator ''may require that [the] student be accompanied by the supervising faculty member, attorney, or accredited representative.'' 8 CFR 1292.1(a)(2)(iv). In addition, once the final rule takes effect, the supervising faculty member (if he or she is also an attorney or accredited representative), attorney, or accredited representative will have the option to register.[17]

In light of its decision not to register law students, the Department has reconsidered whether it should register all of the ''representatives'' outlined in 8 CFR 1292.1. Because attorneys and accredited representatives account for the majority of individuals who practice before EOIR and may represent

[17] EOIR is not requiring those attorneys, accredited representatives, and faculty members in supervisory roles to register. There is no regulatory requirement that, when an alien is represented through a law school clinic, the supervisor enter an appearance before EOIR. In addition, with respect to supervisors who are not attorneys or accredited representatives, there is no specific regulatory provision under which they can appear before EOIR. Even though EOIR is not requiring law students or supervisors to register, EOIR anticipates that, in the future, its electronic filing system will permit filing where the alien is represented through a law school clinic.

individuals without further authorization from an adjudicator, the Department will require these individuals to register. However, registering law graduates, reputable individuals, and accredited foreign government officials would be of extremely limited value. Law graduates and reputable individuals require prior permission to practice from the adjudicator on each case, and reputable individuals are ineligible to practice regularly before EOIR. *See* 8 CFR 1292.1(a)(2)(iv) and 1292.1(a)(3)(iv). Further, an accredited foreign government official may only appear before EOIR when acting in his or her official capacity and representing individuals who are from his or her country. *See* 8 CFR 1292.1(a)(5).

Because the Department has decided to require registration of only attorneys and accredited representatives, it is no longer appropriate, as originally proposed, to amend the definition of ''representative'' at 8 CFR 1001.1(j) to state that all representatives must be registered. Instead, it is necessary to amend 8 CFR 1292.1(a)(4) so that the regulations will specifically require registration of only accredited representatives, and not other types of representatives.[18] Due to this change, the Department will amend the parallel provision concerning attorneys at 8 CFR 1292.1(a)(1), rather than the regulatory definition of attorney at 8 CFR 1001.1(f).

Comment. One commenter suggested that law firms should be able to register rather than the individual attorneys employed by the law firm.

Response. As indicated above with regard to registration of law clinics, EOIR has a long-standing policy of recognizing only individuals as the attorney or representative of record for an alien. The reasons stated for declining to permit law clinics to register are equally applicable to law firms.

Comment. One commenter was concerned that EOIR would publicly disclose the information that it collects from attorneys and representatives during the registration process. The commenter also indicated that attorneys and representatives should not have to provide their home addresses or other private or personal information to EOIR.

Response. The information that EOIR will collect under this regulation is protected by the Privacy Act of 1974. *See* 5 U.S.C. 552a. The collected information will be part of a published system of records established pursuant to the Privacy Act. *See* 69 FR 26179 (May 11, 2004). EOIR may disclose information under the routine uses specified in the system of records notice. 69 FR at 26179–26180.

The Department may amend the system of records notice related to the information collected for the registry and may publish additional routine uses. One such routine use, as described further below, may involve the disclosure on EOIR's Web site of the name and business address of each registrant so that the public will have notice of all attorneys and accredited representatives who are registered to practice before EOIR. The Department will publish any changes to the system of records notice in the **Federal Register**.

The final rule requires that individuals provide some personal information to EOIR. Attorneys and accredited representatives who register must provide an address; however, this address should be the address at which the registering individual normally receives business correspondence. If the registering individual's home address also serves as his or her business address, then the individual must provide that address to EOIR. Likewise, attorneys and accredited representatives who register must provide a business telephone number.

EOIR will also collect from attorneys and accredited representatives their dates of birth. This information will not be published, but is necessary for validation purposes and to differentiate and identify individuals in the registry. There may be numerous attorneys and accredited representatives with the same name. This additional unique identifying information will assist EOIR in properly authorizing individuals for inclusion in the registry and communicating with the appropriate individual on a case. However, as noted above, the Department has decided not to collect the last four digits of registrants' Social Security numbers.

Comment. One commenter believes that registration will not assist in stopping the unauthorized practice of law before EOIR. The commenter stated that because Form EOIR–28 already requires attorneys to provide bar admission information, immigration judges and the Board are able to determine if an individual is authorized to practice without a registry.

Response. The Department disagrees that a registry of attorneys and accredited representatives will not assist in combating the unauthorized practice of immigration law. The unauthorized practice of immigration law, sometimes colloquially called ''notario'' fraud, is a significant problem facing federal, state, and local regulators. The Department is part of a national initiative to combat this problem.[19] Electronic registration will help EOIR to combat notario fraud. Specifically, as noted above, EOIR will require that, before a registry account is approved and an EOIR ID issued, an attorney or accredited representative must present EOIR with photo identification so that EOIR can confirm his or her identity. There is currently no requirement that attorneys and accredited representatives present photo identification to EOIR.

A registry will provide EOIR adjudicators with a database of individuals who are authorized to practice before them. EOIR will require each registrant to provide his or her unique EOIR ID number on any Form EOIR–27 or Form EOIR–28 that he or she files, to assist adjudicators in more readily identifying the registrant's status. Further, when EOIR eventually creates an electronic filing system, only registered attorneys and accredited representatives will be able to file documents electronically in cases. Finally, EOIR may provide a list of names and business addresses of registered attorneys and accredited representatives on its Internet Web site so that the public can determine if the individual from whom they are seeking representational services is in fact registered to practice before EOIR. The Department invites public comment on whether it should publish such a list on the Internet.

Comment. Two commenters suggested that requiring attorneys and representatives to register with EOIR would have a negative effect on pro bono representation of aliens. Both commenters expressed concerns that registration would deter lawyers from pro bono practice if they have never before practiced immigration law because they might believe that registering is too burdensome.

Response. EOIR is committed to encouraging pro bono and low cost representation of aliens. EOIR maintains and distributes to unrepresented aliens a list of free legal services. *See* 8 CFR 1003.61 *et seq.* Further, EOIR has a program by which it officially recognizes non-profit organizations and

[18] This final rule does not impose any new duties on or amend the regulations at 8 CFR part 1292 governing reputable individuals, law graduates, or accredited foreign government officials.

[19] On June 9, 2011, the U.S. Government launched a multi-agency, nationwide initiative to combat immigration services scams. The Department, including EOIR, along with the Department of Homeland Security and the Federal Trade Commission, are leading this effort. Additional information is available at *http://www.justice.gov/eoir/press/2011/UPILJointRelease%2006092011.pdf.*

accredits non-attorney members of those organizations to provide representation to aliens for a nominal fee. 8 CFR 1292.2. Although a pro bono attorney will need to register, it is a one-time event consisting of a simple two-step process that can be accomplished quickly, easily, and at no cost to the registrant.

The Department does not believe that pro bono representation will be significantly affected by requiring registration. Attorneys are familiar with the concept of having to be admitted to practice prior to appearing before a tribunal. Therefore, attorneys who have never practiced immigration law should expect that they may need to register in order to practice before EOIR.

Further, attorneys wishing to appear on EOIR's list of free legal services must apply to be placed on the list, *see* 8 CFR 1003.62, 1003.63, and recognized organizations that seek accreditation of non-attorneys to practice before EOIR must apply for that accreditation. *See* 8 CFR 1292.2(d); *Matter of EAC, Inc.,* 24 I&N Dec. 563 (BIA 2008). There is no evidence that either of these requirements has significantly affected pro bono representation. Likewise, the Department does not expect that the registration process outlined in this final rule will deter pro bono representation.

Comment. One commenter stated that the regulation should require counsel for the Department of Homeland Security (DHS) to register with EOIR.

Response. The purpose of the registry is to create a database of all private attorneys and accredited representatives who appear before EOIR. This registry will ensure that EOIR is only allowing authorized individuals to practice before its immigration judges and the Board. The reasons for registering private attorneys and accredited representatives are not relevant to DHS counsel. DHS counsel are Federal employees and may include any officer assigned to represent DHS in any proceeding before an immigration judge or the Board. *See* 8 CFR 1001.1(s). Therefore, it is extremely unlikely that an unauthorized individual would represent DHS at an EOIR proceeding. For these reasons, the Department declines to include DHS personnel in the registry.

Comment. One commenter suggested that the registration process would inhibit robust representation of individuals in immigration proceedings by allowing the government to track which lawyers are taking ''controversial'' cases.

Response. EOIR disagrees that the registration process would inhibit robust representation of individuals in immigration proceedings. EOIR must register attorneys and representatives as an initial step in the process of creating an electronic case access and filing system. Registering attorneys and accredited representatives will reduce scheduling errors and avoid confusion as to who is representing a particular alien. In addition, registered attorneys and accredited representatives will be able to update their registration information electronically via the Internet and, in the future, access EOIR's electronic filing system to submit and potentially retrieve documents.[20] These benefits will encourage, not detract from, robust representation on behalf of individuals in immigration proceedings.

EOIR is committed to providing fair and unbiased adjudications and in issuing this rule has no intent to inhibit the representation of aliens. The registration process would have no impact on ''the practitioner's duty to represent zealously his or her client within the bounds of the law.'' *See* 8 CFR 1003.102.

V. Regulatory Requirements

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The Department estimates that no more than 54,000 private attorneys and accredited representatives will register electronically the first year in order to practice before EOIR. Given that registration only needs to be done once, EOIR anticipates that in each subsequent year, the number of new initial registrants will be significantly lower than the number of such registrants for the first year. While EOIR does not keep statistics on the size of the firms and organizations of attorneys and accredited representatives practicing before EOIR, many of these attorneys and accredited representatives may be classified as or employed by ''small entities'' as defined under section 601 of the Regulatory Flexibility Act. In particular, the Department recognizes that there are attorneys whose firms may be classified as ''small businesses'' and, thus, as ''small entities'' under section 601. For example, there may be attorneys practicing before EOIR who are solo practitioners or employed by firms with 2 to 30 people. There are also non-profit religious, charitable, social service, or similar organizations recognized to practice before EOIR under 8 CFR 1292 who employ accredited representatives. Some of these recognized organizations may also be classified as ''small organizations'' and, thus, as ''small entities'' under section 601.

Although the exact number of law firms and recognized organizations that may be classified as ''small entities'' is not known, the Department certifies that this rule will not have a significant adverse economic impact on a substantial number of these entities. Registering electronically with EOIR will be a simple, routine process similar to registering online for a library card or other similar services. In order to register, attorneys and accredited representatives will need to access the Internet and complete an electronic registration providing the following information: name, business address(es), business telephone number(s), date of birth, email address, bar admission information (if applicable), and recognized organization (if applicable). Prior to approving a registry account and issuing an EOIR ID, EOIR will also require registrants to validate their identities by presenting photo identification in person. Completion of the registration process, including registering online and presenting photo identification for identity validation, will take approximately 10 minutes for each registrant and only needs to be completed once.

There will be no financial costs to attorneys or accredited representatives to register. EOIR will not assess a fee to register. Most attorneys and accredited representatives practicing before EOIR currently have Internet access in order to conduct legal research, communicate with clients, access government resources, and submit filings to Federal courts of appeal and DHS; therefore, they will not need to incur any new costs in order to obtain access. Consequently, the Department believes that there will not be a significant adverse economic impact on the great majority of registrants.

As described below in the certification under Executive Orders 12866 and 13563, the Department believes that such registration will economically benefit registrants. By creating a registry in which each attorney or accredited representative is individually and uniquely identified, EOIR will be able to improve its correspondence with registrants regarding immigration matters,

[20] As noted above, EOIR intends to issue guidance, as needed, to be followed when an attorney or accredited representative seeks to change his or her address.

including scheduling matters before EOIR. This will reduce the likelihood that attorneys and accredited representatives will need to incur costs in communicating with clients and EOIR regarding incorrectly scheduled hearings. In addition, registration ultimately will enable an electronic filing system that will reduce the time and expense presently incurred with paper filings. Attorneys and accredited representatives will reduce the costs associated with purchasing paper and printing supplies to prepare paper-based forms and petitions and mailing such filings to EOIR and government counsel.

Therefore, the Department certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 804. As discussed in the certification under the Regulatory Flexibility Act, attorneys and accredited representatives will not be assessed a fee to register and, as Internet access in the legal field is ubiquitous, most will not need to incur any new costs in order to obtain access to the Internet. Thus, this rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Executive Orders 12866 and 13563—Regulatory Planning and Review

The final rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f)(4), Regulatory Planning and Review. Accordingly, the regulation has been submitted to OMB for review. The Department certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.[21]

This rule establishes procedures for private attorneys and accredited representatives to register electronically with EOIR as a condition of representing aliens before immigration judges and the Board. Requiring attorneys and accredited representatives to register electronically with EOIR is a necessary precursor to implementing an electronic case access and filing system.

The registration of attorneys and accredited representatives will greatly benefit EOIR. Through the registration process, EOIR will ensure that each attorney or accredited representative will be individually identified and associated with the registration information that the attorney or accredited representative will provide during registration. This will reduce errors concerning an attorney's or accredited representative's correct mailing address and avoid confusion as to who is representing a particular alien. EOIR will collect from each authorized registrant a unique UserID and password that will permit registrants to access the registry in order to update their registration information online and, in the future, to access EOIR's electronic filing system. Further, EOIR will use the collected information to assign a unique EOIR ID number to each registrant. EOIR will require each registrant to provide his or her unique EOIR ID number on any Form EOIR–27 or Form EOIR–28 that he or she files to assist adjudicators in more readily identifying the registrant's status.

An online registration process will be required for registration. For the initial registration, attorneys and accredited representatives will be required to complete an electronic registration in which they must provide the following information: name, business address(es), business telephone number(s), date of birth, email address, bar admission information (if applicable), and recognized organization (if applicable).

The Department estimates that no more than 54,000 attorneys and accredited representatives will register electronically the first year. Given that registration only needs to be done once, EOIR anticipates that in each subsequent year, the number of initial registrants will be significantly lower than the number of such registrants for the first year. For each registrant, completion of the registration process, including registering online and presenting photo identification in person for identity validation, will take approximately 10 minutes. There is no fee to register. Consequently, the Department believes that the costs to attorneys and accredited representatives to complete the registration process with EOIR will be nominal.

The registration of attorneys and accredited representatives will greatly benefit registrants. The registry will ensure that each attorney or accredited representative is individually and uniquely identified and associated with the registration information that the attorney or accredited representative will provide during registration. This will increase efficiency by reducing system errors in scheduling matters and providing improved notice to attorneys and accredited representatives. In addition, registration ultimately will enable an electronic filing system that will reduce the time and expense presently incurred with paper filings.

Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

[21] Following the issuance of Executive Order 13563, the Department issued its ''Preliminary Plan for Retrospective Analysis of Existing Rules'' (Plan) on May 18, 2011, identifying several regulations that it plans to review. *See* Plan, *available online* at *http://www.justice.gov/open/preliminary-doj-rr-plan.pdf.* In a separate rulemaking, the Department will address the proposed amendments that it is considering as part of the retrospective review under the Plan. Although this rulemaking addressing EOIR's registry is not part of the Department's retrospective review, it is consistent with the goals of that review. Specifically, it will improve the immigration courts' and Board's ability to function efficiently and, as the first step toward electronic filing, it will lead to major benefits for attorneys and accredited representatives who practice before EOIR.

Executive Order 12988—Civil Justice Reform

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

Paperwork Reduction Act

The Department of Justice has submitted a request for approval of a new information collection instrument to OMB for review in accordance with the Paperwork Reduction Act (PRA) of 1995. The proposed new information collection was published and comments regarding the collection were requested in the notice of proposed rulemaking in 2003 in accordance with 5 CFR 1320.11. *See* 68 FR 75160, 75163. The proposed new information collection is republished in this rule to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days in conjunction with the final rule. EOIR will not commence the proposed new information collection until it has satisfied its obligations under the PRA.

If you have any suggestions or comments, especially on the estimated public burden or associated response time, or need a copy of the proposed new information collection instrument with instructions or additional information, please contact the Department as noted above. Written comments and suggestions from the public and affected agencies concerning the proposed new information collection instrument are encouraged.

Comments on this issue should address one or more of the following four points: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) how the Department could enhance the quality, utility, and clarity of the information to be collected and (4) how the Department could minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

The new information collection instrument sponsored by the Department will apply to practitioners and has been designated as ''*Attorney and Accredited Representative Registration Before the Executive Office for Immigration Review.*'' The new collection will be administered through electronic means exclusively.

The collected information will be used to approve a unique UserID and password permitting registrants to access the registry in order to update their registration information online and, in the future, to access EOIR's electronic filing system. Further, EOIR will use the collected information to assign a unique EOIR ID number to each registrant. EOIR will require each registrant to provide his or her unique EOIR ID number on any Form EOIR–27 or Form EOIR–28 that he or she files to assist adjudicators in more readily identifying the registrant's status.

The Department estimates an average response time for the new information collection instrument at 10 minutes per response (including registering online and presenting photo identification to EOIR for identity validation), with a total number of respondents of no more than 54,000 individuals for the first year. This figure includes those currently practicing before EOIR. Given that registration only needs to be done once, EOIR anticipates that in each subsequent year, the number of initial registrants (i.e., new attorneys who seek to appear before EOIR) will be significantly lower than the number of such registrants for the first year. The total public burden associated with the new collection is no more than 9,000 burden hours for the first year. EOIR anticipates burden hours in future years to be significantly lower than in the first year.

List of Subjects in 8 CFR Part 1292

Administrative practice and procedures, Immigration, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, part 1292 of title 8 of the Code of Federal Regulations is amended as follows:

PART 1292—REPRESENTATION AND APPEARANCES

■ 1. The authority citation for part 1292 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1252b, 1362; 6 U.S.C. 521, 522.

■ 2. Amend § 1292.1 by:

■ a. Revising paragraphs (a)(1) and (a)(4); and by

■ b. Adding paragraph (f), to read as follows:

§ 1292.1 Representation of others.

(a) * * *

(1) *Attorneys in the United States.* Any attorney as defined in § 1001.1(f) of this chapter and who, once the registration requirements in paragraph (f) of this section have taken effect, is registered to practice with the Executive Office for Immigration Review.

* * * * *

(4) *Accredited representatives.* A person representing an organization described in § 1292.2 of this chapter who has been accredited by the Board, and who, once the registration requirements in paragraph (f) of this section have taken effect, is registered to practice with the Executive Office for Immigration Review.

* * * * *

(f) *Registration requirement for attorneys and accredited representatives.* The Director or his designee is authorized to register, and establish procedures for registering, attorneys and accredited representatives, specified in paragraph (a) of this section, as a condition of practice before immigration judges or the Board of Immigration Appeals. Such registration procedures will include a requirement for electronic registration and that each registrant validate his or her identity by presenting photo identification. The Director or his designee may administratively suspend from practice before the immigration judges and the Board any attorney or accredited representative who fails to provide the following required registration information: name, business address(es), business telephone number(s), date of birth, email address, bar admission information (if applicable), and recognized organization (if applicable), or who, after having provided that information, fails to present photo identification or comply with any other validation requirements implemented by the Director. After such a system has been established, an immigration judge may, under extraordinary and rare circumstances, permit an unregistered attorney or accredited representative to appear at one hearing if the immigration judge first acquires from the attorney or accredited representative, on the record, the required registration information. An unregistered attorney or accredited representative who is permitted to appear at a hearing in such circumstances must complete the electronic registration process without delay after the hearing at which he or she is permitted to appear.

Dated: March 22, 2013.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2013–07526 Filed 3–29–13; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM12–14–000; Order No. 776]

Annual Charge Filing Procedures for Natural Gas Pipelines

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission (Commission or FERC) is amending its regulations to revise the filing requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. Currently, natural gas pipelines utilizing an ACA clause must make an annual tariff filing to reflect a revised ACA unit charge authorized by the Commission for that fiscal year. To reduce the regulatory burden on these pipelines, the Commission will eliminate this annual filing requirement. In its place, the Commission will require natural gas pipelines utilizing an ACA clause to incorporate the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's Web site located at *http://www.ferc.gov.*

DATES: This rule will become effective May 31, 2013.

FOR FURTHER INFORMATION CONTACT: Adam Bednarczyk (Technical Issues), 888 First Street NE., Washington, DC 20426, (202) 502–6444, *Adam.Bednarczyk@ferc.gov.* Michelle A. Davis (Legal Issues), 888 First Street NE., Washington, DC 20426, (202) 502–8687, *Michelle.Davis2@ferc.gov.*

SUPPLEMENTARY INFORMATION:

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

Issued March 21, 2013.

1. In this Final Rule, the Federal Energy Regulatory Commission (Commission or FERC) is amending its regulations at 18 CFR 154.402 to revise the filing requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. Currently, natural gas pipelines utilizing an ACA clause must make an annual tariff filing to reflect a revised ACA unit charge authorized by the Commission for that fiscal year. To reduce the regulatory burden on these pipelines, the Commission will eliminate this annual filing requirement. In its place, the Commission will require natural gas pipelines utilizing an ACA clause to incorporate the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's Web site located at *http://www.ferc.gov.*

I. Background

A. Commission Regulations

2. The Commission is required to ''assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.'' [1] To accomplish this, the Commission created the annual charges program, which is designed to recover the costs of administering the natural gas, oil, and electric programs by calculating the costs of each program, net of filing fees, and properly allocating them among the three programs.[2] This proceeding applies only to the recovery of annual charges assessed to entities in the natural gas program.

3. The provisions governing the assessment of annual charges are codified in Part 382 of the Commission's regulations.[3] In brief, after the Commission calculates the costs of administering the natural gas regulatory program,[4] it assesses those costs to natural gas pipeline companies (Pipelines).[5] Each Pipeline is assessed a proportional share of the Commission's costs of administering the natural gas program. That proportional share is based on the proportion of the total gas subject to Commission regulation which was sold and transported by each company in the immediately preceding calendar year to the sum of the gas subject to the Commission regulation which was sold and transported in the immediately preceding calendar year by all natural gas pipeline companies being assessed annual charges.[6] For example, if a Pipeline sold and transported 10 percent of the total gas subject to the Commission's regulations, that Pipeline would be assessed 10 percent of the costs of the natural gas regulatory program in the form of an annual charge.

4. Pipelines are entitled to recover these annual charges from their customers, and they have two options for doing so. First, upon Commission approval, a Pipeline may adjust its rates annually to recover the annual charges through an ACA clause.[7] Second, a Pipeline may seek to recover its annual charges through its general transportation rates.[8] This proceeding proposes to modify only the first method, i.e., recovery of annual charges through an ACA clause, as it is widely used among Pipelines.

5. Order No. 472 recognized that although the Commission generally disfavors the use of tracking mechanisms, it is appropriate that Pipelines be permitted to pass through these annual charges directly to customers.[9] Accordingly, the Commission provided Pipelines an option of passing along the annual charges to customers through a surcharge to their transportation rates reflected in an ACA clause.[10] The Commission's requirements for Pipelines that choose to utilize an ACA clause are codified in section 154.402 of the Commission's regulations.[11] The ACA clause must be filed with the Commission and indicate the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge). The ACA unit charge will be specified by the Commission at the time the Commission calculates the annual charge bills. A company must reflect the ACA unit charge in each of its rate schedules applicable to sales or transportation deliveries. The company

[1] *See Omnibus Budget Reconciliation Act,* Public Law 99–509, Title III, Subtitle E, Sec. 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1874, 1890–91 (*codified at* 42 U.S.C. 7178 (2012)).

[2] *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986,* Order No. 472, FERC Stats & Regs. ¶ 30,746, *clarified by,* Order No. 472–A, FERC Stats. & Regs. ¶ 30,750, *order on reh'g,* Order No. 472–B, FERC Stats. & Regs. ¶ 30,767 (1987), *order on reh'g,* Order No. 472–C, 42 FERC ¶ 61,013 (1988).

[3] 18 CFR part 382 (2012).

[4] *Id.* at 382.102(d) (defining the ''natural gas regulatory program'' as the Commission's regulation of the natural gas industry under the Natural Gas Act; Natural Gas Policy Act of 1978; Alaska Natural Gas Transportation Act; Public Utility Regulatory Policies Act; Department of Energy Organization Act; Outer Continental Shelf Lands Act; Energy Security Act; Regulatory Flexibility Act; Crude Oil Windfall Profit Tax Act; National Environmental Policy Act; National Historic Preservation Act).

[5] For the purposes of this proceeding, we use the term natural gas pipeline company (Pipeline) as it is defined in 18 CFR 382.102(a) (2012): ''any person: (1) Engaged in natural gas sales for resale or natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act whose sales for resale and transportation exceed 200,000 Mcf at 14.73 psi (60 °F) in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges; and (2) Not engaged solely in ''first sales'' of natural gas as that term is defined in section 2(21) of the Natural Gas Policy Act of 1978; and (3) To whom the Commission has not issued a Natural Gas Act Section 7(f) declaration; and (4) Not holding a limited jurisdiction certificate.''

[6] 18 CFR 382.202 (2012).

[7] *Id.* at 154.402.

[8] Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629.

[9] *Id.*

[10] *Id.*

[11] 18 CFR 154.402 (2012).

must apply the ACA unit charge to the usage component of rate schedules with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under § 382.106(a) of this chapter. The applicable annual charge, required by § 382.103 of this chapter, must be paid before the company applies the ACA unit charge.[12]

6. Pipelines that seek to recover annual charges through an ACA clause must file a tariff record containing a statement that the company is collecting an ACA per unit charge, as approved by the Commission, applicable to all the pipeline's sales and transportation rate schedules, the per unit charge of the ACA, the proposed effective date of the tariff change (30 days after the filing of the tariff sheet or section, unless a shorter period is specifically requested in a waiver petition and approved), and a statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of [part 154 of the Commission's regulations].[13]

Additionally, the Commission requires these Pipelines to file revised tariff records to reflect changes to the ACA unit charge authorized by the Commission each fiscal year.[14]

7. Each year the Commission sets the ACA unit charge for the natural gas program in July.[15] Pipelines that wish to begin collecting the ACA unit charge on the first day of the fiscal year are required to file revised tariff records reflecting changes in the ACA unit charge by September 1 of each year, to be effective October 1 of that year.[16] So long as the Pipeline has paid its annual charge to the Commission, the Commission will accept the tariff records, and they will go into effect on October 1. To the extent that the ACA unit charge remains the same from one year to the next, existing Pipelines that already reflect that ACA unit charge in their tariffs need not make a filing for that year. This annual process is designed to ensure that Pipelines collect charges for the entire fiscal year, as defined in Part 382 of the Commission's regulations.

8. In 2011, the Commission received 145 filings to reflect the annual change in the ACA unit charge. In years in which the ACA unit charge does not change, there are fewer filings. However, some Pipelines, such as those that have recently gone into service and have been billed an annual charge, are still permitted to submit a filing to the Commission in order to pass along the annual charge to their customers.

B. Notice of Proposed Rulemaking (NOPR)

9. On October 18, 2012, the Commission issued a NOPR proposing to eliminate the ACA unit charge filing requirement set forth in Part 154 of the Commission's regulations. The Commission received comments in support of the NOPR from the American Gas Association, Spectra Entities, Interstate Natural Gas Association of America (INGAA) and KO Transmission Company. In addition to INGAA's comments in support of the NOPR, INGAA proposes a minor modification to the NOPR to eliminate unnecessary confusion and to reduce the filing burden on pipelines. Specifically, INGAA proposes requiring pipelines to submit compliance filings 30 or 60 days prior to the proposed October 1, 2013, effective date of this Final Rule.[17]

II. Discussion

10. In an effort to reduce the regulatory burden associated with annual tariff filings to reflect the current year's ACA unit charge, the Commission will eliminate the annual filing requirement for Pipelines utilizing an ACA clause. In its place, the Commission will require Pipelines utilizing an ACA clause to incorporate the Commission-authorized ACA unit rate by reference to that rate, as published on the Commission's Web site. Accordingly, Pipelines that wish to continue utilizing an ACA clause will be required to make a one-time tariff revision that incorporates the ACA unit charge published on the Commission's Web site into the Pipeline's tariff as the ACA unit charge for the relevant fiscal year.[18]

11. The Commission is aware that in addition to the basic statutory requirement that all rates and charges be on file with the Commission,[19] the filing requirements associated with the annual revisions to the ACA unit charge serve important practical functions. First, the annual tariff filing (and the Commission's acceptance of that filing) establishes an effective date upon which the Pipeline is entitled to begin collecting that fiscal year's ACA unit charge. Second, the annual filing provides the Commission with an opportunity to ensure that the Pipeline has actually paid the annual charge that it seeks to recover from customers.[20]

12. Because the annual filing requirement will be eliminated under the reforms set forth in this Final Rule, the Commission will require Pipelines utilizing an ACA clause to incorporate by reference into their tariffs the ACA unit charge specified in the annual notice issued by the Commission entitled ''FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge.'' This ACA unit charge shall be effective on the first day of October following issuance of this notice and shall extend to the last day of September the following year (i.e., the duration of the fiscal year). However, the ACA unit charge shall only be incorporated by reference into the Pipeline's tariff, and thereby assessed to shippers, if the Pipeline has paid its annual assessment, as reflected on a new notice, entitled ''Payment Status of Pipeline Billings—FY [Year],'' that the Commission will issue each year. This notice will identify the Pipelines that have been assessed annual charges for a fiscal year and indicate whether they have paid their charges and are, therefore, authorized to recover the ACA unit charge from shippers. The Commission will issue the ''Payment Status of Pipeline Billings—FY [Year]'' notice on the last business day of the fiscal year, and provide updates as necessary. All of the documents can be found on the Annual Charges page of the Natural Gas section of the Commission's Web site, located at *http://www.ferc.gov.*

13. We emphasize that the only thing changed by this Final Rule is the filing requirement for those Pipelines that utilize an ACA clause. This Final Rule does not prevent Pipelines from continuing to recover annual charges assessed by the Commission through their transportation rates, as established in a general rate case. Nor does this Final Rule modify how the Commission calculates the costs of the natural gas

[12] *Id.* at 154.402(a).

[13] *Id.* at 154.402(b).

[14] *Id.* at 154.402(c).

[15] The Commission publishes this change via a notice entitled, ''FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge,'' which is available on the Commission's Web site, located at *http://www.ferc.gov.*

[16] *See* 18 CFR 382.102(i) (2012) (defining ''fiscal year'' as the twelve-month period that begins on the first day of October and ends on the last day of September); *see also id.* at 154.402(b)(3) (requiring the proposed effective date of the tariff change revising the ACA unit charge to be 30 days after the date the change is filed, unless a shorter period is specifically requested in a waiver petition and approved).

[17] *See* INGAA Comments at 2–3.

[18] *See* 18 CFR 382.102(i) (2012) (defining ''fiscal year'' as the twelve-month period that begins on the first day of October and ends on the last day of September).

[19] 15 U.S.C. 717c (2006).

[20] Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629–30 (explaining that Pipelines may only collect those annual charges that they have already paid to the Commission).

regulatory program or how the ACA unit charge is calculated or assessed.

14. We are taking this action as part of our commitment to continually review our regulations and eliminate those requirements that impose an unnecessary burden on regulated entities. We find that requiring Pipelines to incorporate the ACA unit charge by reference to the notices published on the Commission's Web site will retain all of the transparency and consumer safeguards embodied in the Commission's existing regulations. However, it will eliminate approximately 145 filings each year, thereby reducing the regulatory burden on the Pipelines and the Commission.

III. Compliance

15. This Final Rule requires Pipelines to implement the changes set forth herein in time for the 2014 fiscal year. Accordingly, the Commission will require each Pipeline utilizing an ACA clause to make a one-time compliance filing revising its tariff to incorporate by reference the ACA unit charge published on the Commission's Web site, as discussed above. In order to give Pipelines subject to these modifications adequate time to implement these changes, this compliance filing will be due 60 days before the required effective date of October 1, 2013.

IV. Information Collection Statement

16. The Office of Management and Budget's (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[21] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number.

17. The Commission sought comments on its burden estimates associated with adoption of the NOPR proposals. In response to the NOPR, no comments were filed addressing the reporting burden estimates imposed by these requirements. Therefore the Commission will use the same estimates in this Final Rule.

18. The following FERC–542 reporting requirements contained in this Final Rule are being submitted to the Office of Management and Budget (OMB) for review under section 507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The burden estimates reflect the time necessary for respondents to update their tariffs according to this Final Rule. Additionally, these estimates highlight reductions to the burden since respondents will no longer have to file ACA charge tariff adjustments. More specifically, the Commission estimates it will require eight hours per response to make the ''one-time'' (during the first year only) compliance tariff changes set forth in this Final Rule to place the new tariff language into effect. However, in each year (including the 1st year), the Commission also estimates that filers will see a two-hour reduction in burden per response from no longer filing ACA charge tariff adjustments. The following table displays the estimated annual burden hour impact of the Final Rule.

FERC–542 in the final rule in RM12–14	Number of respondents (A)	Number of responses per respondent per year (B)	Total number of responses per year (A) * (B) = (C)	Addition of average burden hours per response (D)	Reduction of average burden hours per response (E)	Net average burden hours per response (D) + (E) = (F)	Estimated total annual burden (C) * (F)
Year 1	145	1 Compliance Filing.	145	+8 (Compliance Filing).	0	+8	+1160
Year 1	145	1 Avoided ACA filing.	145	0	−2 (ACA filing)	−2	−290
Year 1 SUB-TOTAL.						+6	+870
Year 2	145	1 Avoided ACA filing.	145	0	−2 (ACA filing)	−2	−290
Year 3	145	1 Avoided ACA Filing.	145	0	−2 (ACA filing)	−2	−290
NET TOTAL							+290

To understand the burden estimates above, reference the following equation:

Year 1 + Year 2 + Year 3 → +870 hours − 290 hours − 290 hours = +290 hours

The net total additional annual burden associated with this Final Rule over Years 1–3 period is 290 hours. Thus, the average additional annual burden for Years 1–3 is 97 hours (290 hours ÷ 3 years = 97 hours per year). Further, the Commission estimates that each respondent (on average) should experience a decrease to the annual burden (of 2 hours per year) due to the avoidance of the ACA filing.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average cost for all respondents to be the following:[22]

- One-time total cost in Year 1 of $51,330 (870 hours * $59/hour)
- Avoided cost per year (starting in Year 1) of $17,110 (290 hours * $59/hour)

Title: FERC–542, Gas Pipeline Rates: Rate Tracking.

Action: One-time filing and reduced future filings.

OMB Control Number: 1902–0070.

Respondents: Natural Gas Pipelines.

Frequency of Responses: One-time implementation and future reduction in number of responses.

Necessity of Information: The proposals in this Final Rule would, if implemented, result in a net reduction of annual burden of interstate natural

[21] 5 CFR 1320.11 (2012).

[22] The cost figures are derived by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of $59 (a composite estimate that includes legal, technical and support staff wages and benefits obtained from the Bureau of Labor Statistic data at *http://bls.gov/oes/current/naics3_221000.htm* and *http://www.bls.gov/news.release/ecec.nr0.htm).*

gas pipelines, starting with the fifth year and in each year thereafter.

Internal Review: The Commission has reviewed the requirements pertaining to the modification of the Commission's regulations and made a preliminary determination that the revisions are necessary to reduce the burden imposed by the Commission on the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

19. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

20. Comments concerning the collection of information and the associated burden estimate, should be sent to the Commission in this docket and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395–4638, fax: (202) 395–4718]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM12–14–000 and OMB Control Number 1902–0070.

V. Environmental Analysis

21. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[23] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[24] The actions set forth here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[25] Therefore, an environmental assessment is unnecessary and has not been prepared as part of this Final Rule.

VI. Regulatory Flexibility Act

22. The Regulatory Flexibility Act of 1980 (RFA)[26] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a Final Rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[27] The SBA has established a size standard for pipelines transporting natural gas, stating that a firm is small if its annual receipts are less than $25.5 million.[28]

23. The regulations set forth here impose requirements only on interstate pipelines, the majority of which are not small businesses. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity. Approximately 145 entities would be potential respondents subject to data collection FERC–545 reporting requirements. Nearly all of these entities are large entities. For the year 2011 (the most recent year for which information is available), only 15 companies not affiliated with larger companies had annual revenues of less than $25.5 million. Moreover, these requirements are designed to benefit all customers, including small businesses. The Commission estimates that the one-time cost per small entity is $354.[29] In the future, small entities should see a cost savings related to avoiding an annual ACA charge adjustment filing. The Commission does not consider the estimated $354 impact per entity to be significant. Accordingly, pursuant to § 605(b) of the RFA, the Commission certifies that this Final Rule should not have a significant economic impact on a substantial number of small entities.

VII. Document Availability

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

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

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

VIII. Effective Date and Congressional Notification

27. These regulations are effective May 31, 2013. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 154

Natural gas, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends Part 154, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 154–RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

■ 2. In § 154.402, revise paragraphs (a) and (b) to read as follows:

§ 154.402 ACA expenditures.

(a) *Requirements.* Upon approval by the Commission, a natural gas pipeline company may adjust its rates, annually, to recover from its customers annual charges assessed by the Commission under part 382 of this chapter pursuant to an annual charge adjustment clause (ACA clause). Prior to the start of each fiscal year, the Commission will post on

[23] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[24] 18 CFR 380.4 (2012).

[25] *See id.* at 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[26] 5 U.S.C. 601–612 (2000).

[27] 13 CFR 121.101 (2012).

[28] *Id.* at subsection 486.

[29] This number is derived by multiplying the hourly figure (6) by the cost per hour ($59). 6 hrs * $59/hr = $354.

its Web site the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge) for that fiscal year. A company's ACA clause must be filed with the Commission and must incorporate by reference the ACA unit charge for the upcoming fiscal year as posted on the Commission's Web site. A company must incorporate by reference the ACA unit charge posted on the Commission's Web site in each of its rate schedules applicable to sales or transportation deliveries. The company must apply the ACA unit charge posted on the Commission's Web site to the usage component of rate schedules with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under § 382.106(a) of this chapter. The applicable annual charge, required by § 382.103 of this chapter, must be paid before the company applies the ACA unit charge. Upon payment to the Commission of its annual charges, the ACA unit charge for that fiscal year will be incorporated by reference into the company's tariff, effective throughout that fiscal year.

(b) *Application for rate treatment authorization.* A company seeking authorization to use an ACA unit charge must file with the Commission a separate ACA tariff record containing:

(1) A statement that the company is collecting an ACA unit charge, as calculated by the Commission, applicable to all the pipeline's sales and transportation rate schedules,

(2) A statement that the ACA unit charge, as revised annually and posted on the Commission's Web site, is incorporated by reference into the company's tariff,

(3) For companies with existing ACA clauses, a proposed effective date of the tariff change of October 1 of the fiscal year; for companies seeking to utilize an ACA clause after October 1 of the fiscal year, a proposed effective date 30 days after the filing of the tariff record, unless a shorter period is specifically requested in a waiver petition and approved), and

(4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of this part.

* * * * *

[FR Doc. 2013–07078 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket Nos. FDA–2011–C–0344 and FDA–2011–C–0463]

Listing of Color Additives Exempt From Certification; Reactive Blue 246 and Reactive Blue 247 Copolymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the color additive regulations to provide for the safe use of additional copolymers of 1,4-bis[4-(2-methacryloxyethyl)phenylamino] anthraquinone (C.I. Reactive Blue 246) and copolymers of 1,4-bis[(2-hydroxyethyl)amino]-9,10-anthracenedione bis(2-methyl-2-propenoic)ester (C.I. Reactive Blue 247) as color additives in contact lenses. This action is in response to two color additive petitions (CAPs) filed by CooperVision, Inc.

DATES: This rule is effective May 2, 2013. See section VII for related information on the filing of objections. Submit either electronic or written objections and requests for a hearing by May 1, 2013.

ADDRESSES: You may submit either electronic or written objections and requests for a hearing, identified by Docket No. FDA–2011–C–0344 (C.I. Reactive Blue 246) or FDA–2011–C–0463 (C.I. Reactive Blue 247), by any of the following methods:

Electronic Submissions

Submit electronic objections in the following ways:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written objections in the following ways:

• *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and the appropriate docket number (FDA–2011–C–0344 for C.I. Reactive Blue 246 or FDA–2011–C–0463 for C.I. Reactive Blue 247) for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section.

Docket: For access to the dockets to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket numbers, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: *Regarding CAP 1C0291 (C.I. Reactive Blue 246):* Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1071.

Regarding CAP 1C0292 (C.I. Reactive Blue 247): Teresa Croce, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1281.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of June 28, 2011 (76 FR 37690), we announced that CooperVision, Inc., 6150 Stoneridge Mall Rd., suite 370, Pleasanton, CA 94588 (petitioner) had filed two color additive petitions (CAP 1C0291 and CAP 1C0292). The petitions proposed to amend the color additive regulations in 21 CFR part 73, subpart D, *Medical Devices,* to provide for the safe use of additional copolymers of 1,4-bis[(2-hydroxyethyl)amino]-9,10-anthracenedione bis(2-methyl-2-propenoic)ester (C.I. Reactive Blue 247) and additional copolymers of 1,4-bis[4-(2-methacryloxyethyl)phenylamino] anthraquinone (C.I. Reactive Blue 246) as color additives in contact lenses. The color additives are produced by copolymerizing the reactive dyes with various vinyl and/or acrylic monomers such that the dyes are bound covalently and cross-linked in the resulting polymer matrix.[1]

[1] According to the International Union of Pure and Applied Chemistry (IUPAC), a vinyl polymer is prepared from a monomer containing the vinyl group $-CH{=}CH_2$. Acrylic polymers are one subclass of vinyl polymers; however, not all acrylic polymers (e.g., methacrylic polymers) are vinyl polymers using the IUPAC definition (Ref. 1). The term ''vinyl and/or acrylic monomers'' includes monomers that form vinyl polymers, monomers that form acrylic polymers (e.g., acrylate, methacylate, acrylamide, etc.), or any combination thereof.

Current regulations for C.I. Reactive Blue 246 and C.I. Reactive Blue 247 copolymers (21 CFR 73.3106 and 73.3100, respectively) list the reaction products of these reactive dyes with specific vinyl and/or acrylic monomers for use in coloring contact lenses.[2] The petitions sought to expand the list of permitted monomers to include any suitable vinyl and/or acrylic monomer capable of forming a contact lens. The petitions were filed under section 721 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379e). In § 73.3100, Reactive Blue 247 is identified as 1,4-bis[(2-hydroxyethyl) amino]-9,10-anthracenedione bis(2-propenoic)ester. As part of this final rule, we are correcting the nomenclature for Reactive Blue 247 by inserting ''2-methyl'' before ''2-propenoic.''

II. Safety Evaluation

Under section 721(b)(4) of the FD&C Act, a color additive may not be listed for a particular use unless the data available to FDA establishes that the color additive is safe for that use. Our color additive regulations at 21 CFR 70.3(i) define safe to mean that there is ''convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive.''

As part of our safety evaluation of the color additives, we considered exposure to unreacted C.I. Reactive Blue 246 and 247 and any impurities (e.g., reaction byproducts) from the petitioned use of the color additives. We also considered results from skin sensitization, ocular irritation, and cytotoxicity studies with either representative lens materials or extracts from the lens materials (i.e., the color additives that are the subjects of the petitions).[3]

A. C.I. Reactive Blue 246

We calculated an exposure estimate for C.I. Reactive Blue 246 from its proposed use in three representative contact lens formulations using vinyl and/or acrylic monomers based on results from a leachability study that was conducted by the petitioner. This study demonstrated that there was no detectable migration of C.I. Reactive Blue 246 at the limit of detection (LOD) of an appropriate analytical method for any of the lens formulations evaluated. We estimated the potential exposure to any one impurity using the maximum amount of total impurities determined in C.I. Reactive Blue 246.

The average daily exposure to C.I. Reactive Blue 246 from its proposed use would be no greater than 13 nanograms (ng)/person/day (p/d) and the maximum exposure to any one impurity will not exceed 0.6 ng/p/d. These estimates represent worst-case exposure, and the actual exposure to C.I. Reactive Blue 246 and its impurities from the use of the color additive in contact lenses is expected to be significantly lower. Based on data submitted in the petitions, as well as other relevant information, we note that it is highly unlikely that either C.I. Reactive Blue 246 or its components would migrate from the contact lens into the aqueous environment of the eye because the reactive dye is covalently bound and cross-linked during polymerization such that any migration from the resulting copolymer matrix as a result of the proposed uses will be negligible. Therefore, we conclude that the exposure to the color additive, including any impurities that may be present in it, from the petitioned use would be negligible (Ref. 2).

The petitioner submitted data from 24 toxicology studies on either representative lens materials or extracts from representative lens materials with and without C.I. Reactive Blue 246 to establish the safety of the copolymerized color additives of C.I. Reactive Blue 246. Studies included guinea pig maximization studies, *in vivo* ocular irritation studies in rabbits, and cytotoxicity studies. Based on our review of these studies, we conclude that there is no evidence of toxicity (Ref. 3).

B. C.I. Reactive Blue 247

We calculated an exposure estimate for C.I. Reactive Blue 247 from its proposed use in three representative contact lens formulations using vinyl and/or acrylic monomers based on results from a leachability study that was conducted by the petitioner. This study demonstrated that there was no detectable migration of C.I. Reactive Blue 247 at the LOD of an appropriate analytical method for any of the lens formulations evaluated. We estimated the potential exposure to any one impurity using the maximum amount of total impurities determined in C.I. Reactive Blue 247.

The average daily exposure to C.I. Reactive Blue 247 from its proposed use would be no greater than 10 ng/p/d and the maximum exposure to any one impurity will not exceed 0.5 ng/p/d. These estimates represent worst-case exposure, and the actual exposure to C.I. Reactive Blue 247 and its impurities from the use of the color additive in contact lenses is expected to be significantly lower. Based on data submitted in the petitions, as well as other relevant information, we note that it is highly unlikely that either C.I. Reactive Blue 247 or its components would migrate from the contact lens into the aqueous environment of the eye because the reactive dye is covalently bound and cross-linked during polymerization such that any migration from the resulting copolymer matrix as a result of the proposed uses will be negligible. Therefore, we conclude that the exposure to the color additive, including any impurities that may be present in it, from the petitioned use would be negligible (Ref. 4).

The petitioner submitted data from 24 toxicology studies on either representative lens materials or extracts from representative lens materials with and without C.I. Reactive Blue 247 to establish the safety of the copolymerized color additives of C. I. Reactive Blue 247. Studies included guinea pig maximization studies, *in vivo* ocular irritation studies in rabbits, and cytotoxicity studies. Based on our review of these studies, we conclude that there is no evidence of toxicity (Ref. 5).

III. Conclusion

Based on the data contained in the two petitions and other available relevant material, we conclude that the petitioned use of the reaction products formed by copolymerizing either C.I. Reactive Blue 246 or C.I. Reactive Blue 247 with vinyl and/or acrylic-monomers to form colored contact lenses is safe and that the color additives will achieve their intended technical effect. We further conclude that there is no need for imposing a limitation on the amount of color additive to be used, beyond the limitation that reactants may be used in amounts not to exceed the minimum reasonably required to accomplish the intended technical effect. Therefore, we

[2] 21 CFR 73.3106 originally allowed for the safe use of 1,4-bis[4-(2-methacryloxyethyl) phenylamino]anthraquinone (C.I. Reactive Blue 246) copolymerized with hydroxyethyl methacrylate monomer or a blend of hydroxyethyl methacrylate and *N*-vinyl pyrrolidone monomers (58 FR 17506, April 5, 1993). The regulation was later amended to also allow for the safe use of C.I. Reactive Blue 246 copolymerized with a blend of 3-[tris(trimethylsiloxy)silyl]propyl vinyl carbamate and *N*-vinyl pyrrolidone monomers (60 FR 10495, February 27, 1995).

21 CFR 73.3100 allows for the safe use of 1,4-bis[(2-hydroxyethyl)amino]-9,10-anthracenedione bis(2-propenoic)ester (C.I. Reactive Blue 247) copolymerized either with glyceryl methacrylate, methyl methacrylate, and ethylene glycol dimethacrylate monomers, or with *N,N*-dimethyl acrylamide, methyl methacrylate, and ethylene glycol dimethacrylate monomers (61 FR 51584, October 3, 1996).

[3] Both the petitioner's representative formulations and currently regulated formulations consist of either C.I. Reactive Blue 246 or C.I. Reactive Blue 247 copolymerized with various vinyl and/or acrylic monomers.

are amending the regulations in part 73 (21 CFR part 73) as set forth in this document. In addition, based upon the factors listed in § 71.20(b) (21 CFR 71.20(b)), we have determined that batch certification of these color additives is not necessary for the protection of the public health.

IV. Public Availability of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure.

V. Environmental Impact

We previously considered the environmental effect of this rule, as stated in the June 28, 2011, **Federal Register** notice of petitions for CAP 1C0291 and CAP 1C0292 (76 FR 37690). We stated that we had determined, under 21 CFR 25.32(l), that this action ''is of a type that does not individually or cumulatively have a significant effect on the human environment'' such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

This rule is effective as shown in the **DATES** section; except as to any provisions that may be stayed by the filing of proper objections. Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections regarding this document. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. It is only necessary to send one set of documents. Identify documents with the appropriate docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

VIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.*

1. Barón, M., K.-H. Hellwich, M. Hess, K. Horie, et al, ''Glossary of Class Names of Polymers Based on Chemical Structure and Molecular Architecture (IUPAC Recommendations 2009)'', *Pure and Applied Chemistry,* 81(6), pp. 1131–1186, 2009.

2. Memorandum from H. Lee, Division of Petition Review, Chemistry Review Team, to J. Kidwell, Division of Petition Review, Regulatory Group I, FDA, July 26, 2011.

3. Memorandum from S. Park, Division of Petition Review, Toxicology Review Team, to M.Harry, Division of Petition Review, Regulatory Group I, FDA, November 30, 2011.

4. Memorandum from H. Lee, Division of Petition Review, Chemistry Review Team, to T.Croce, Division of Petition Review, Regulatory Group II, FDA, August 16, 2011.

5. Memorandum from T.Walker, Division of Petition Review, Toxicology Review Team, to T.Croce, Division of Petition Review, FDA, January 13, 2012.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Amend § 73.3100 by revising the section heading and paragraph (a) to read as follows:

§ 73.3100 1,4-Bis[(2-hydroxyethyl)amino]-9,10-anthracenedione bis(2-methyl-2-propenoic)ester copolymers.

(a) *Identity.* The color additives are the copolymers formed as the reaction product of 1,4-bis[(2-hydroxyethyl)amino]-9,10-anthracenedione bis(2-methyl-2-propenoic)ester (C.I. Reactive Blue 247) (CAS Reg. No. 109561–07–1) with one or more vinyl and/or acrylic monomers to form the contact lens material.

* * * * *

■ 3. Amend § 73.3106 by revising paragraph (a) to read as follows:

§ 73.3106 1,4-Bis[4-(2-methacryloxyethyl) phenylamino]anthraquinone copolymers.

(a) *Identity.* The color additives are the copolymers formed as the reaction product of 1,4-bis[4-(2-methacryloxyethyl)phenylamino]anthraquinone (C.I. Reactive Blue 246) (CAS Reg. No. 121888–69–5) with one or more vinyl and/or acrylic monomers to form the contact lens material.

* * * * *

Dated: March 25, 2013.

Susan M. Bernard,

Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.

[FR Doc. 2013–07294 Filed 3–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0056]

Drawbridge Operation Regulations; Old River, Orwood, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating regulation that governs the Burlington Northern & Santa Fe Railroad (BNSF) Drawbridge across Old River, mile 10.4, at Orwood, CA. The deviation is to allow the bridge owner to perform essential mechanical repairs on the bridge. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

DATES: This deviation is effective from 8 a.m. April 15, 2013, until 4 p.m. on April 19, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0056], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: BNSF has requested a temporary change to the operation of the BNSF Railroad Drawbridge, mile 10.4, over Old River, at Orwood, CA. The drawbridge navigation span provides a vertical clearance of 11.2 feet above Mean High Water in the closed-to-navigation position. The draw opens promptly and fully when a request to open is given. Navigation on the waterway is commercial and recreational.

This temporary deviation has been coordinated with commercial operators and various marinas. No objections to the proposed temporary deviation were raised. Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 19, 2013.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2013–07483 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2013–0006]

RIN 0651–AC84

Revisions to Patent Term Adjustment

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Interim final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice to implement the changes to the patent term adjustment provisions in section 1(h) of the Act to correct and improve certain provisions of the Leahy-Smith America Invents Act and title 35, United States Code (AIA Technical Corrections Act). Section 1(h) of the AIA Technical Corrections Act revises the date from which the fourteen-month patent term adjustment period is measured, and clarifies the date from which the three-year patent term adjustment period is measured, with respect to international applications filed under the Patent Cooperation Treaty. Under section 1(h) of the AIA Technical Corrections Act, the fourteen-month patent term adjustment period and the three-year patent term adjustment period will be measured from the same date: the date on which an application was filed under 35 U.S.C. 111(a) in an application under 35 U.S.C. 111; or the date of commencement of the national stage under 35 U.S.C. 371 in an international application. Section 1(h) of the AIA Technical Corrections Act also revises the provisions for notifying applicants of patent term adjustment determinations and for requesting reconsideration and judicial review of the Office's patent term adjustment determinations and decisions.

DATES: *Effective date:* April 1, 2013.

Applicability date: The changes to 37 CFR 1.702, 1.703, and 1.705 in this interim rule apply to any patent granted on or after January 14, 2013. The change to 37 CFR 1.704 in this interim rule applies to any application in which a notice of allowance was mailed on or after April 1, 2013.

Comment deadline date: Written comments must be received on or before May 31, 2013.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: *AC84.comments@uspto.gov.* Comments may also be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313–1450, marked to the attention of Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because sharing comments with the public is more easily accomplished. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of the Commissioner for Patents, currently located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office's Internet Web site (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Kery A. Fries, Senior Legal Advisor ((571) 272–7757), Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

SUPPLEMENTARY INFORMATION:

Executive Summary: Purpose: Section 1(h) of the AIA Technical Corrections Act revises the patent term adjustment provisions of 35 U.S.C. 154(b). The AIA Technical Corrections Act revises the date from which the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i)(II), and clarifies the date from which the three-year period in 35 U.S.C. 154(b)(1)(B), are measured with respect to international applications. Section 1(h) of the AIA Technical Corrections Act also revises the provisions in 35 U.S.C. 154(b)(3) and (b)(4) for notifying applicants of patent term adjustment

determinations and for requesting reconsideration and judicial review of the Office's patent term adjustment determinations and decisions.

Summary of Major Provisions: The Office is revising the rules of practice pertaining to patent term adjustment for consistency with the change to 35 U.S.C. 154(b)(1)(A)(i)(II) to indicate that the fourteen-month period is measured from the date of commencement of the national stage under 35 U.S.C. 371 in an international application. The change to 35 U.S.C. 154(b)(1)(B) does not require a change to the rules of practice, as the current rules of practice interpret the phrase ''actual filing date of the application in the United States'' in former 35 U.S.C. 154(b)(1)(B) as meaning the date of commencement of the national stage under 35 U.S.C. 371 in an international application.

The Office is also revising the provisions pertaining to seeking reconsideration of a patent term adjustment determination, in light of the changes to 35 U.S.C. 154(b)(3) and (b)(4). The Office is continuing to provide that any request for reconsideration of the patent term adjustment indicated on the patent must be filed within two months from the date the patent was granted. The Office is revising this provision to indicate that this two-month time period may be extended by an additional five months, permitting an applicant to request reconsideration of the patent term adjustment indicated on the patent as late as seven months after the date the patent was granted.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

Background: The AIA Technical Corrections Act was enacted on January 14, 2013. *See* Public Law 112–274, 126 Stat. 2456 (2013). Section 1(h) of the AIA Technical Corrections Act revises the patent term adjustment provisions of 35 U.S.C. 154(b). *See* 126 Stat. at 2457.

Section 1(h)(1)(A) of the AIA Technical Corrections Act amends 35 U.S.C. 154(b)(1)(A)(i)(II) to change ''the date on which an international application fulfilled the requirements of section 371'' to ''the date of commencement of the national stage under section 371 in an international application.'' *See id.* Under former 35 U.S.C. 154(b)(1)(A)(i)(II), the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i) was measured from ''the date on which an international application fulfilled the requirements of section 371 of this title,'' and an international application does not fulfill the requirements of 35 U.S.C. 371 until the applicant files (*inter alia*) the inventor's oath or declaration (35 U.S.C. 371(c)(4) and MPEP § 1893.03(b)). *See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR 48776, 48780 (Aug. 14, 2012). Thus, under section 1(h)(1)(A) of the AIA Technical Corrections Act, the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i) is measured from: (1) The date on which an application was filed under 35 U.S.C. 111(a); or (2) the date of commencement of the national stage under 35 U.S.C. 371 in an international application.

Section 1(h)(1)(B) of the AIA Technical Corrections Act amends 35 U.S.C. 154(b)(1)(B) to change ''the actual filing date of the application in the United States'' to ''the actual filing date of the application under section 111(a) in the United States or, in the case of an international application, the date of commencement of the national stage under section 371 in the international application.'' *See* 126 Stat. at 2457. Thus, under section 1(h)(1)(B) of the AIA Technical Corrections Act, the three-year period in 35 U.S.C. 154(b)(1)(B) is measured from: (1) The actual filing date of the application under 35 U.S.C. 111(a) in the United States; or (2) in the case of an international application, the date of commencement of the national stage under 35 U.S.C. 371 in the international application.

The change to 35 U.S.C. 154(b)(1)(A)(i)(II) requires a change in Office practice, as the date of commencement of the national stage under 35 U.S.C. 371 is not always the date on which an international application fulfilled the requirements of 35 U.S.C. 371. However, the change to 35 U.S.C. 154(b)(1)(B) does not require a change in Office practice, because, since the patent term adjustment provisions of 35 U.S.C. 154(b) were implemented in September of 2000, the Office has interpreted the phrase ''actual filing date of the application in the United States'' in former 35 U.S.C. 154(b)(1)(B) as the date of commencement of the national stage under 35 U.S.C. 371 in an international application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR 56365, 56382–84 (Sept. 18, 2000) (explaining why the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) must mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application). The change to 35 U.S.C. 154(b)(1)(A)(i)(II) and (b)(1)(B) in section 1(h)(1) of the AIA Technical Corrections Act means that the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i) and the three-year period in 35 U.S.C. 154(b)(1)(B) will be measured from the same date: (1) The date on which an application was filed under 35 U.S.C. 111(a) in an application under 35 U.S.C. 111; or (2) the date of commencement of the national stage under 35 U.S.C. 371 in an international application.

Section 1(h)(2) of the AIA Technical Corrections Act amends 35 U.S.C. 154(b)(3)(B)(i) to change ''shall transmit a notice of that [patent term adjustment] determination with the written notice of allowance of the application under section 151'' to ''shall transmit a notice of that [patent term adjustment] determination no later than the date of issuance of the patent.'' *See* 126 Stat. at 2457. This change eliminates the need for the Office to provide an initial patent term adjustment determination with the notice of allowance and before the patent term adjustment under 35 U.S.C. 154(b)(1)(A)(iv) and 154(b)(1)(B) is known. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR 56365, 56374 (explaining that a two-part process is required because the Office is obliged under 35 U.S.C. 154(b)(3) to provide a patent term adjustment determination before the issue date, and thus the patent term adjustment, is known).

Section 1(h)(3) of the AIA Technical Corrections Act amends 35 U.S.C. 154(b)(4) to change ''[a]n applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the Eastern District of Virginia within 180 days after the grant of the patent'' to ''[a]n applicant dissatisfied with the Director's decision on the applicant's request for reconsideration under paragraph (3)(B)(ii) shall have exclusive remedy by a civil action against the Director filed in the United States District Court for the Eastern District of Virginia within 180 days after the date of the Director's decision on the applicant's request for reconsideration.'' *See* 126 Stat. at 2457. This change to 35 U.S.C. 154(b)(4) clarifies that: (1) A civil action under 35 U.S.C. 154(b)(4) is not an alternative to requesting reconsideration of a patent term adjustment under 35 U.S.C. 154(b)(3), but is the remedy for an applicant who is dissatisfied with the Director's decision on the applicant's request for reconsideration; and (2) a civil action under 35 U.S.C. 154(b)(4) is the exclusive remedy for an applicant who is dissatisfied with the Director's decision on the applicant's request for reconsideration.

Section 1(n) of the AIA Technical Corrections Act provides that amendments made by the AIA Technical Corrections Act shall take effect on January 14, 2013 (the date of enactment of the AIA Technical Corrections Act), and shall apply to proceedings commenced on or after January 14, 2013. *See* 126 Stat. at 2459. Section 1(n) of the AIA Technical Corrections Act does not limit the applicability of the changes in section 1(h) to applications filed on or after January 14, 2013. *Cf.* Section 4405(a) of the American Inventors Protection Act of 1999 (AIPA), Public Law 106–113, 113 Stat. 1501, 1501A–552 through 1501A–591 (1999) (limiting the applicability of the patent term adjustment provisions of the AIPA to applications filed on or after May 29, 2000 (the date that is six months after the date of the enactment of AIPA). Patent term adjustment proceedings are not ''commenced'' until the Office notifies the applicant of the Office's patent term adjustment under 35 U.S.C. 154(b)(3), which now occurs when the patent is granted. Therefore, the changes to 35 U.S.C. 154 in section 1(h) of section 1(n) of the AIA Technical Corrections Act apply to any patent granted on or after January 14, 2013.

Discussion of Specific Rules

The following is a discussion of the amendments to Title 37 of the Code of Federal Regulations, Part 1.

Section 1.702: Section 1.702(a)(1) is amended to measure the fourteen-month period from the date of commencement of the national stage 35 U.S.C. 371(b) or (f) in an international application. Section 1.702(a)(1)(i) now specifically states that a ground for potential patent term adjustment is the failure of the Office to: ''Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.''

Section 1.702(b) is amended to change the paragraph heading to ''*Three-year pendency.''* No further change to 1.702(b) is necessary, as the Office has interpreted the phrase ''actual filing date of the application in the United States'' in former 35 U.S.C. 154(b)(1)(B) as the date of commencement of the national stage under 35 U.S.C. 371 in an international application since the patent term adjustment provisions of 35 U.S.C. 154(b) were implemented in September of 2000 (as discussed previously).

Section 1.703: Section 1.703(a)(1) is amended to measure its fourteen-month period from the date of commencement of the national stage 35 U.S.C. 371(b) or (f) in an international application. Section 1.703(a)(1)(i) now specifically states that the applicable time period is: ''The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first''.

No change to § 1.703(b) is necessary, as the Office has interpreted the phrase ''actual filing date of the application in the United States'' in former 35 U.S.C. 154(b)(1)(B) as the date of commencement of the national stage under 35 U.S.C. 371 in an international application since the patent term adjustment provisions of 35 U.S.C. 154(b) were implemented in September of 2000 (as discussed previously).

Section 1.704: Section 1.704(c) is amended to remove the reference to an application for patent term adjustment under § 1.705. Section 1.705 no longer provides for a request for reconsideration of the patent term adjustment indicated in the notice of allowance, as 35 U.S.C. 154(b)(3) no longer requires a patent term adjustment with the notice of allowance.

35 U.S.C. 154(b)(3)(C) (implemented in § 1.705(c)) provides for reinstatement of all or part of the period of adjustment reduced pursuant to 35 U.S.C. 154(b)(2)(C) if the applicant makes a showing that, in spite of all due care, the applicant was unable to respond within the three-month period, but requires that such a showing be made ''prior to the issuance of the patent.'' Thus, § 1.704(e) continues to provide that the submission of a request under § 1.705(c) for reinstatement of reduced patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704(c)(10).

Section 1.705: Section 1.705(a) provides that the patent will include notification of any patent term adjustment under 35 U.S.C. 154(b). This change is due to the change to 35 U.S.C. 154(b)(3) to no longer require notice of a patent term adjustment with the notice of allowance. The Office plans to continue to provide an indication of the patent term adjustment with the issue notification, but the patent term adjustment under 35 U.S.C. 154(b) indicated on the patent is the ''official'' notification of the Office's patent term adjustment determination.

Section 1.705(b) provides that any request for reconsideration of the patent term adjustment indicated on the patent must be by way of an application for patent term adjustment filed no later than two months from the date the patent was granted, and that this two-month time period may be extended under the provisions of § 1.136(a) by five months. This provision permits an applicant to request reconsideration of the patent term adjustment indicated on the patent as late as seven months after the date the patent was granted. Section 1.705(b) no longer provides for a request for reconsideration of the Office's patent term adjustment determination prior to the grant of a patent.

The Office has adopted *ad hoc* procedures for seeking reconsideration of the patent term adjustment determination when there have been changes (*sua sponte* or as a result of court decisions) to the Office's interpretation of the provisions of 35 U.S.C. 154(b). *See Revision of Patent Term Adjustment Provisions Relating to Appellate Review,* 77 FR 49354, 49356 (Aug. 16, 2012), and *Interim Procedure for Patentees To Request a Recalculation of the Patent Term Adjustment To Comply With the Federal Circuit Decision in Wyeth* v. *Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A),* 75 FR 5043, 5044 (Feb. 1, 2010). These *ad hoc* procedures were adopted because former 35 U.S.C. 154(b)(4) provided a time period for seeking judicial review that was not related to the filing of a request for reconsideration of the Office's patent term adjustment determination or the date of the Office's decision on any request for reconsideration of the Office's patent term adjustment determination. In view of the changes to 35 U.S.C. 154(b)(3) and 154(b)(4), and to permit patentees additional time to determine whether to request reconsideration of the Office's patent term adjustment determination, the Office is providing in § 1.705(b) that its two-month time period may be extended under the provisions of § 1.136(a) (permitting an applicant to request reconsideration of the patent term adjustment indicated on the patent as late as seven months after the date the patent was granted).

Section 1.705(c) is amended to provide that any request for reinstatement of all or part of the period of adjustment reduced pursuant to § 1.704(b) for failing to reply to a rejection, objection, argument, or other

request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must be filed prior to the issuance of the patent, and that this time period is not extendable. 35 U.S.C. 154(b)(3)(C) requires that such a showing be made ''prior to the issuance of the patent,'' and thus the Office cannot permit the showing provided for in 35 U.S.C. 154(b)(3)(C) and § 1.705(c) to be submitted with a request for reconsideration of the Office's patent term adjustment determination under § 1.705(b).

The former provisions of §§ 1.705(d) and (e) have been removed in view of the changes to 1.705(b).

Rulemaking Considerations

A. *Administrative Procedure Act:* This rulemaking revises the rules of practice in patent cases to implement the changes to the patent term adjustment provisions of 35 U.S.C. 154(b) in the AIA Technical Corrections Act. The revisions pertaining to 35 U.S.C. 154(b)(1) simply revise the provisions of 37 CFR 1.702 and 1.703 for consistency with the changes to 35 U.S.C. 154(b)(1). The revisions pertaining to 35 U.S.C. 154(b)(3) simply revise 37 CFR 1.704 and 1.705 to change (extend) the time period for seeking reconsideration of a patent term adjustment determination in light of the changes to 35 U.S.C. 154(b)(3). These changes do not alter the substantive criteria of patentability or patent term adjustment. Therefore, these changes involve rules of agency practice and procedure and/or interpretive rules. *See Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims); *National Whistleblower Ctr.* v. *Nuclear Regulatory Comm'n,* 208 F.3d 256, 262 (D.C. Cir. 2000) (rules that prescribe a timetable for asserting rights are procedural, unless they foreclose an effective opportunity to make one's case on the merits) (quoting *Lamoille Valley R.R. Co.* v. *ICC,* 711 F.2d 295, 328 (D.C. Cir. 1983)); and *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive). In addition, good cause exists to make these procedural changes without prior notice and opportunity for comment and to be effective immediately so as to avoid inconsistency between the provisions of 37 CFR 1.702 through 1.705 and 35 U.S.C. 154(b) as amended by the AIA Technical Corrections Act.

Accordingly, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law) and thirty-day advance publication is not required pursuant to 5 U.S.C. 553(d) (or any other law). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'') (quoting 5 U.S.C. 553(b)(A)). The Office, however, is publishing these changes as an interim rule to allow for public comments because the Office seeks the benefit of the public's views on the Office's implementation of the changes to 35 U.S.C. 154(b) in the AIA Technical Corrections Act.

B. *Regulatory Flexibility Act:* For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes in this rulemaking will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The changes in this rulemaking: (1) Revise the date from which the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i) is measured in an international application for consistency with the change to 35 U.S.C. 154(b)(1)(A)(i)(II); and (2) revise (extend) the time period for seeking reconsideration of the Office's patent term adjustment in view of the changes in 35 U.S.C. 154(b)(3) and (b)(4). These changes mirror the provisions in the AIA Technical Corrections Act and do not add any additional requirements (including information collection requirements) or fees for patent applicants or patentees. For these reasons, the changes in this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. *Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. *Executive Order 13563 (Improving Regulation and Regulatory Review):* The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. *Executive Order 13132 (Federalism):* This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. *Executive Order 13175 (Tribal Consultation):* This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. *Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. *Executive Order 12988 (Civil Justice Reform):* This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. *Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. *Executive Order 12630 (Taking of Private Property):* This rulemaking will not effect a taking of private property or otherwise have taking implications

under Executive Order 12630 (Mar. 15, 1988).

K. *Congressional Review Act:* Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the United States Patent and Trademark Office will submit a report containing this interim rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking will not result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not a ''major rule'' as defined in 5 U.S.C. 804(2).

L. *Unfunded Mandates Reform Act of 1995:* The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. *National Environmental Policy Act:* This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. *National Technology Transfer and Advancement Act:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

O. *Paperwork Reduction Act:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. The rules of practice pertaining to patent term adjustment and extension have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) under OMB control number 0651–0020. The changes in this rulemaking: (1) Revise the date from which the fourteen-month period in 35 U.S.C. 154(b)(1)(A)(i) is measured in an international application for consistency with the change to 35 U.S.C. 154(b)(1)(A)(i)(II); and (2) revise (extend) the time period for seeking reconsideration of the Office's patent term adjustment in view of the changes in 35 U.S.C. 154(b)(3) and (b)(4). This rulemaking does not add any additional requirements (including information collection requirements) or fees for patent applicants or patentees. Therefore, the Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this rulemaking do not affect the information collection requirements associated with the information collections approved under OMB control number 0651–0020 or any other information collections.

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

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.702 is amended by revising paragraph (a)(1) and the heading of paragraph (b) to read as follows:

§ 1.702 Grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) * * *

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application;

* * * * *

(b) *Three-year pendency.* * * *

* * * * *

■ 3. Section 1.703 is amended by revising paragraph (a)(1) to read as follows:

§ 1.703 Period of adjustment of patent term due to examination delay.

(a) * * *

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

* * * * *

■ 4. Section 1.704 is amended by revising paragraph (e) to read as follows:

§ 1.704 Reduction of period of adjustment of patent term.

* * * * *

(e) The submission of a request under § 1.705(c) for reinstatement of reduced patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

■ 5. Section 1.705 is amended by removing paragraphs (d) and (e), redesignating paragraph (f) as paragraph (d), and revising paragraph (a), the introductory text of paragraph (b), and the introductory text of paragraph (c) to read as follows:

§ 1.705 Patent term adjustment determination.

(a) The patent will include notification of any patent term adjustment under 35 U.S.C. 154(b).

(b) Any request for reconsideration of the patent term adjustment indicated on the patent must be by way of an application for patent term adjustment filed no later than two months from the date the patent was granted. This two-month time period may be extended under the provisions of § 1.136(a). An application for patent term adjustment under this section must be accompanied by:

* * * * *

(c) Any request for reinstatement of all or part of the period of adjustment

reduced pursuant to § 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must be filed prior to the issuance of the patent. This time period is not extendable. Any request for reinstatement of all or part of the period of adjustment reduced pursuant to § 1.704(b) under this paragraph must also be accompanied by:

* * * * *

Date: March 25, 2013.

Teresa Stanek Rea,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 2013–07429 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0082; FRL–9795–6]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Transportation Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the State Implementation Plan (SIP) submitted by the Commonwealth of Virginia. This revision amends Virginia's transportation conformity requirements in order to be consistent with EPA's revised transportation conformity requirements. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on May 31, 2013 without further notice, unless EPA receives adverse written comment by May 1, 2013. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0082, by one of the following methods:

A. *www.regulations.gov.* Follow the online instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2013–0082, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0082. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the Commonwealth's submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Transportation conformity is required under section 176(c) of the CAA to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment and those redesignated to attainment after 1990 (maintenance areas), with plans developed under section 175A of the CAA for the following transportation related criteria pollutants: ozone, fine particulate matter ($PM_{2.5}$) and coarse particulate matter (PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS).

On March 14, 2012 (77 FR 14979), EPA promulgated various administrative amendments to the Federal transportation regulation. As a result of this rulemaking, under 40 CFR 51.390, Virginia is required to submit a SIP revision that establishes conformity criteria and procedures consistent with the transportation conformity regulation promulgated in 40 CFR part 93.

II. Summary of SIP Revision

In order to implement the Federal transportation conformity requirements, the Commonwealth of Virginia's regulation must reflect the recent revisions made to the Federal regulations. On October 1, 2012, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP for Transportation Conformity purposes. The SIP revision consists of amendments to the Commonwealth Regulation for Transportation Conformity (9VAC5 Chapter 151). This SIP revision addresses provisions of the EPA Conformity Rule required under 40 CFR part 93. The revision amends 9VAC5–151–40, entitled ''General,'' in order to change the date of the specific version of the provisions incorporated by reference from 40 CFR part 93 (2010) in effect July 1, 2010 to 40 CFR part 93 (2012) in effect July 1, 2012. The SIP

revision also amends 9VAC5–151–70, entitled ''Consultation,'' in order to change conformity tests and methodologies for isolated rural nonattainment and maintenance areas as required by 40 CFR 93.109(n)(2)(iii) to those required by 40 CFR 93.109(g)(2)(iii).

EPA's review of Virginia's SIP revisions indicates that it is consistent with EPA's Conformity Rule. Virginia met the requirements under 40 CFR 51.390 to establish conformity criteria and procedures consistent with the transportation conformity regulation promulgated by EPA under 40 CFR part 93. In order to implement the Federal transportation conformity requirements, Virginia's regulation must reflect the most recent rulemaking promulgated by EPA on March 14, 2012 (77 FR 14979).

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That: are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the State plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving the Virginia SIP revision for transportation conformity, which was submitted on October 1, 2012. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the Proposed Rules section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 31, 2013 without further notice unless EPA receives adverse comment by May 1, 2013. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must 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.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

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

B. Submission to Congress and the Comptroller General

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).

C. 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 May 31, 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 to approve the Virginia Transportation Conformity Regulation may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: March 20, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Sections 5–151–40 and 5–151–70. The revised text reads as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA–APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
* *	*	*	* *	*
Chapter 151 (9 VAC 5) Transportation Conformity				
* *	*	*	* *	*
Part III Criteria and Procedures for Making Conformity Determinations				
5–151–40	General	8/15/12	4/1/13 *[Insert page number where the document begins].*	
* *	*	*	* *	*
5–151–70	Consultation	8/15/12	4/1/13 *[Insert page number where the document begins].*	Section D.1.f. is amended.
* *	*	*	* *	*

* * * * *

[FR Doc. 2013–07384 Filed 3–29–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 27 and 90

[WT Docket Nos. 06–150, 01–309, 03–264, 06–169, 96–86, 07–166, CC Docket No. 94,102, PS Docket No. 06–229; FCC 13–29]

Service Rules for the 698–746, 747–762 and 777–792 MHz Bands; Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems; et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Memorandum Opinion and Order on Reconsideration (MO&O) denies or dismisses petitions seeking reconsideration of certain decisions made by the Commission in the *700 MHz Second Report and Order,* relating to the 698–806 MHz Band, including decisions regarding performance requirements, the auction and competitive bidding rules, the open platform rules, public safety narrowband relocation procedures, and the decisions not to impose wholesale requirements, eligibility restrictions, and spectrum aggregation limits. This MO&O also dismisses as moot petitions for reconsideration of rules establishing a Public/Private Partnership between the Upper 700 MHz D Block (D Block) licensee and the Public Safety Broadband Licensee in the 763–768 MHz and 793–798 MHz bands.

DATES: Effective May 1, 2013.

FOR FURTHER INFORMATION CONTACT: Peter Trachtenberg at (202) 418–7369 or *peter.trachtenberg@fcc.gov,* Wireless Telecommunications Bureau, Spectrum and Competition Policy Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration, WT Docket Nos. 06–150, 01–309, 03–264, 06–169, 96–86, 07–166, CC Docket No. 94,102, PS Docket No. 06–229; FCC 13–29, adopted February 28, 2013 and released March 1, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Introduction

1. In this MO&O, the Commission addresses petitions that were filed seeking reconsideration of certain decisions made by the Commission in the *700 MHz Second Report and Order* at 72 FR 48814, Aug. 24, 2007, relating to the 698–806 MHz Band (herein, the 700 MHz Band).

II. Discussion

A. Performance Requirements

2. Below the Commission discusses the issues raised by petitioners with respect to the performance requirements that the Commission established in the *700 MHz Second Report and Order.* After careful consideration of the arguments raised in the petitions for reconsideration, the Commission denies the requests to modify the existing performance requirements.

1. Geographic-Based Coverage Requirements for CMA and EA Licenses

3. Blooston Rural Carriers (Blooston), MetroPCS Communications, Inc. (MetroPCS), and Rural Telecommunications Group, Inc. (RTG) filed petitions for reconsideration challenging various aspects of the geographic-based performance requirements.

4. The Commission denies the petitioners' requests to alter the geographic-based coverage requirements. First, the Commission is unpersuaded by Blooston's arguments that a geographic-based performance requirement on CMA licensees (*i.e.* licensees in Lower 700 MHz B Block) is arbitrary and unworkable and should be supplemented with the option of meeting a population-based benchmark. The Commission provided reasonable justifications for its decision to adopt a geographic-based build-out requirement for CMA and EA licenses, and the Commission finds nothing in the record to persuade it to change this decision. The Commission particularly noted that:

> [b]ecause [the Commission] adopt[s] smaller geographic license areas such as CMAs to facilitate the provision of service * * * in rural areas, [it] also adopt[s] performance requirements that are designed to ensure that such service is offered to consumers in these areas.

The Commission further found that:

> the uniqueness of the 700 MHz spectrum justifies the use of geographic benchmarks * * *.

Blooston argues that the Commission arbitrarily discriminated against CMA licenses by providing population-based requirements on both EA and REAG licensees. In fact, the Commission imposed identical geographic-based requirements on EA and CMA licenses, and it reasonably justified its decision to adopt a different approach for the much larger REAG licenses. Blooston argues that for some licenses, meeting the geographic-based benchmarks will be impractical, and offers analysis of nine CMAs out of the 734 in Lower 700 MHz B Block. For specific cases of hardship, however, providers can seek waiver relief. Blooston offers no evidence demonstrating that a geographic-based benchmark is inherently impractical in the usual case.

5. Indeed, the results of the auction of Lower 700 MHz B Block licenses provide further support for the reasonableness of the Commission's geographic-based performance requirements. In the *700 MHz Second Report and Order,* the Commission decided that, if those geographic-based requirements caused a reduction in the monetary value of the licenses to such an extent that bidding in the auction resulted in the Lower 700 MHz B Block failing to meet its applicable aggregate reserve price, the licenses for that block would be re-auctioned subject to population-based performance requirements. Thus, the Commission relied in part on the auction results as a final check on whether its geographic-based performance requirements were in the public interest. When the licenses were auctioned in Auction 73, the Commission received provisionally winning bids on 728 out of 734 Lower 700 MHz B Block licenses and the aggregate amount of the provisionally winning bids far exceeded the applicable aggregate reserve price. Accordingly, the Commission reaffirms the geographic-based coverage requirement for Lower 700 MHz B Block licensees and the Commission denies Blooston's request to add an optional population-based benchmark to Lower 700 MHz B Block. For similar reasons, the Commission rejects the requests of various commenters for a population-based buildout option for EA licensees.

6. The Commission also rejects arguments that the Commission should broaden the exclusions from the

Commission's geographic coverage requirements. The Commission's geographic coverage requirements already exclude government lands, and any further categorical exclusions could undermine the Commission's goals in adopting these requirements, which include taking advantage of the excellent propagation characteristics of 700 MHz spectrum to promote wireless coverage in remote and rural areas. Even with regard to bodies of water, there is a public interest benefit to wireless coverage to vessels near shore, and some level of coverage may be possible from infrastructure on land or, where relevant, through platforms or other facilities constructed out from the shore. In some cases, there may also be demand from economic activity that may benefit from access to advanced communications services over the relevant body of water. For example, for both EAs and CMAs, the Commission separately licenses the Gulf of Mexico as a service area, reflecting the Commission's recognition of the public interest in promoting the deployment of service there to help meet the growing communications needs of petroleum and natural gas providers in the area.

7. Further, the Commission already specifically considered and rejected exclusions for Tribal lands, finding that it did not want to discourage deployment to these areas. While Blooston would limit exclusion of Tribal lands to cases where a licensee had made a good faith but unsuccessful attempt to obtain Tribal government consent, the Commission see no evidence that such consent will often be unreasonably withheld, and the Commission is concerned that an exclusion for Tribal lands may result in reduced efforts to obtain such consent and deploy in these areas.

8. In sum, the Commission concludes that the requested categorical exclusions are not appropriate, but, as mentioned in the *700 MHz Second Report and Order* itself, licensees may seek waivers of the Commission's rules if they believe the circumstances in a particular area warrant relief under the Commission waiver standard. If licensees seek to obtain such waivers, the Commission urges that they make these requests as soon as possible. These requests must be well founded and not based solely on grounds of low population density. The Commission staff will consider these types of requests on a case-by-case basis.

2. Benchmarks for REAG Licenses

9. In the *700 MHz Second Report and Order,* the Commission imposed a population-based performance requirement on Regional Economic Area Groupings (REAG) licensees, who occupy the Upper 700 MHz C Block. In its petition for reconsideration, RTG argues that a geographic-based coverage requirement will better ensure that REAG licensees deploy in rural areas.

10. The Commission concludes that it will retain the requirement that REAG licensees must meet the population-based benchmarks. RTG argues that the REAG approach is inconsistent with the approach the Commission took with regard to EA and CMA licenses, but there is no requirement that the performance requirements be the same for all commercial wireless services, nor even for those of a certain type. The Commission explained its determination that population-based benchmarks were better suited for the much larger REAG licenses in some detail, and there is nothing new in the record to persuade the Commission to change this decision. This decision involved tradeoffs particular to the expectation that these licenses would lead to regional or even nationwide network deployment. Contrary to RTG's assertion, the Commission was mindful not only of the need to develop regional and nationwide networks, but also of the need to promote wireless services in less populated portions of the nation, including rural areas. To address this concern, it provided that REAG licensees must meet the population-based build-out requirements on an EA basis. RTG questions the Commission's expectation that the REAG licenses were more likely to be used to provide regional or nationwide service than the much smaller EA and CMA licenses but offers nothing to undermine the Commission's well-supported predictive judgment. Therefore, the Commission denies RTG's request that REAG licensees be required to meet a geographic-based coverage requirement.

3. Keep-What-You-Use Provisions

11. In the *700 MHz Second Report and Order,* the Commission established both interim and end-of-term enforcement measures that would apply automatically in the event that licensees failed to meet the applicable benchmarks. For licensees that fail to meet the applicable interim benchmark, the Commission decided that the normal ten year license term would be reduced by two years, and the end-of-term benchmark must then be met within eight years. The Commission determined that, at the end of the license term, licensees that fail to meet the end-of-term benchmark would be subject to a keep-what-you-use rule, which would make unused spectrum available to other potential users. For those CMAs or EAs in which the end-of-term performance requirements have not been met, the unused portion of the license will terminate automatically without Commission action and will become available for reassignment by the Commission. Similarly, if a REAG licensee fails to provide signal coverage and offer service to at least 75 percent of the population in any EA comprising the REAG license area by the end of the license term, the unused portion of each such EA in that licensee's authorization area will terminate automatically without Commission action and will become available for reassignment by the Commission.

12. The Commission further established a process governing the reassignment of licenses made available pursuant to the keep-what-you-use rules. As part of this process, the Commission provided that the licenses will be subject to an initial 30-day application period during which the original licensee may not file an application. Following this period, the original licensee is permitted to file an application for any remaining unserved area where licenses have not been issued and there are no pending applications.

13. Several petitioners seek reconsideration of the keep-what-you-use rules. Blooston requests that the Commission provide a

> more precise definition of how the take-back process will work, and what propagation model will be used.

MetroPCS requests that the Commission modify the current rule to adopt a triggered approach, under which the original licensee would only lose unserved areas if a third party files a credible application, demonstrating

> a *bona fide* desire, and the wherewithal, to build-out the spectrum in the unserved market, [and submits a] meaningful upfront payment [that is] sufficiently large to deter speculators.

MetroPCS also requests that the incumbent should be allowed to participate in any auction of the unserved spectrum. Finally, Blooston and MetroPCS request that an original licensee of 700 MHz commercial spectrum subject to loss of unused license area under the keep-what-you-use rule be allowed to retain an expansion area in addition to the area it serves at the end of its license term.

14. The Commission denies the requests to alter the keep-what-you-use rules that the Commission adopted in the *700 MHz Second Report and Order*. First, the Commission disagrees with Blooston's assertion that the Commission needs to provide a more

detailed explanation of how the process will work and what propagation model will be used. The Commission finds that the *700 MHz Second Report and Order* already sets forth the process implementing the keep-what-you use provisions in significant detail, starting with the filing of construction notifications up through the reassignment process, and that further detail regarding the take-back process is unnecessary at this time. Further, a specific propagation model would be contrary to the flexibility that the Commission adopted. In establishing the construction notification through which licensees will demonstrate compliance with performance requirements, the Commission recognized that

> demonstrations of coverage may vary across licensees, [who] will likely use a variety of technologies to provide a range of services with this spectrum.

It specifically rejected a request for a bright-line test for what constitutes sufficient signal strength, provided instead that licensees must provide the assumptions they use to create coverage maps, including the propagation model and signal strength necessary to provide service, and also delegated to the Wireless Telecommunications Bureau (Wireless Bureau) the authority to establish further specifications for filings and to determine coverage areas. The Commission sees no reason to reverse this decision, and therefore rejects Blooston's request.

15. The Commission also denies proposals that the Commission revise the keep-what-you-use rules to provide for a triggered approach, under which a licensee would not lose unused spectrum until a party seeking the spectrum first files an application for the area meeting certain requirements for sufficiency. The Commission notes that the Commission sought comment on a triggered keep-what-you-use approach similar to MetroPCS's proposal prior to adopting the existing rule. The Commission already has application procedures to ensure that license approvals are in the public interest. Under the Commission's existing rules, before any application will be granted, the applicant must already demonstrate, *inter alia,* that it is legally, technically, financially, and otherwise qualified [and that a] grant of the application would serve the public interest, convenience, and necessity.

Requiring applicants seeking authorization over unused spectrum to demonstrate their *bona fides* in new ways above and beyond such established and familiar license application processes may in fact discourage *bona fide* interest in such spectrum, undermining the Commission's goal of putting this spectrum to use. Further, because these proposed revisions to the rules decrease the original licensee's risk of consequences for failing to build-out, they may lessen the incentive for the licensee to expand service into parts of its license areas by the end of its license term. The Commission also does not find persuasive MetroPCS's argument that a triggered approach reduces the prospect that forfeited unserved license areas will lie fallow in the Commission's hands. The rules already address this possibility: if no application is filed by third parties in 30 days, the original licensee is free to apply for it.

16. The Commission also rejects MetroPCS's arguments that in the event the original licensee loses its license or parts thereof through application of the keep-what-you-use rules, it should be allowed to participate in any reauction of the recaptured license areas. Under the Commission's build-out rules, the original licensee has ample opportunity to meet its build-out requirements. Further, barring the original licensee from participating during the initial reauction of its unserved license areas is a reasonable penalty for the licensee's failure to meet its build-out requirements. This measure helps ensure that the original licensee will make all reasonable efforts to meet its performance benchmarks and that the Commission licenses spectrum to those parties that are most likely to use it. MetroPCS argues that the Commission's rule enhances the risk that the original licensee will be subject to green mail from speculators. The Commission thinks the risk of speculators acquiring unused spectrum for green mail purposes is small, however, given that the Commission also required new licensees of spectrum made available under the keep-what-you-use rule to offer service to the entire license area within one year, and provided that if they fail to meet this requirement, they lose the license automatically and are ineligible to file an application to provide service in the same area over the same frequencies at any future date.

17. Finally, the Commission is not persuaded that licensees that fail to meet the end-of-term benchmark should nevertheless retain a portion of the unserved area of their licenses as an expansion area. Parties argue that an expansion area is justified for a number of reasons including the potential need to address changes in customer demand, subsequent development of areas, population growth, and replacement of base stations, or as a buffer to avoid interference. The Commission finds, however, that permitting licensees to keep a part of their unused license areas as petitioners propose would undermine the Commission's keep-what-you-use policy goals of motivating licensees to meet their benchmarks and promoting access to spectrum that is not adequately built out and deployment of service to communities that might otherwise not receive it. Further, the rules adopted in the *700 MHz Second Report and Order* provide ample opportunity for licensees to construct facilities and provide service in their licensed areas. The Commission therefore rejects the requests for an expansion area under the keep-what-you-use rules.

4. Potential Enforcement Provisions for Failure To Build Out

18. Blooston, MetroPCS, and RTG seek reconsideration of the potential mid-term and end-of-term construction benchmarks enforcement provisions. MetroPCS and RTG contend that the Commission did not provide guidance regarding under what circumstances these potential enforcement actions might be taken and they propose various standards. Blooston argues that the Commission should repeal these enforcement provisions altogether, and that the Commission did not provide the notice required by the Administrative Procedure Act (APA) before adopting forfeitures as a potential enforcement measure.

19. The Commission is not persuaded that the Commission should adopt the modifications to the potential enforcement provisions proposed by petitioners. Although petitioners argue that their proposals would resolve ambiguity in the Commission's rules, the Commission finds that their proposals would substantially limit the Commission's enforcement options. For example, MetroPCS argues that that the option of license termination at end-of-term should apply only in cases of failure to provide substantial service. It is already the case under the license renewal requirement, however, that a licensee's failure to demonstrate that it is providing substantial service results, by operation of the rules, in loss of the license. Thus, MetroPCS's interpretation would effectively eliminate license termination as a separate mechanism for enforcing the performance requirements prior to the end of a license term. In rejecting this proposal to partially conflate the substantial service and performance requirements, the Commission also notes that it has

previously emphasized that the substantial service requirement at renewal is distinct from the performance requirements.

20. RTG's proposal—that a licensee should be subject to additional enforcement only if it utterly fails to construct a system—goes even further; it not only eliminates license termination as an enforcement mechanism prior to the end of a license term, but it also reduces this mechanism to a mere subset of its existing form as a license renewal requirement. Therefore, the Commission is not persuaded that any of the petitioners' proposed clarifications are consistent with the Commission's adoption of these enforcement measures.

21. The Commission also disagrees with arguments that the Commission provided no justification in support of the additional enforcement mechanisms and should eliminate them entirely. In adopting its requirements, the Commission underscored that it

> expect[ed] that licensees will take these construction requirements seriously and proceed toward providing service with utmost diligence, [and concluded that] these set of stringent benchmarks * * * *with effective consequences for noncompliance* * * * are the most effective way to promote rapid service to the public, especially in rural areas.

The additional enforcement mechanisms thus reflect the importance of effective enforcement to achieving the Commission's goals for the 700 MHz Band and its determination that the additional mechanisms would help to ensure that enforcement would be effective. Blooston objects that the application of fines in particular is a departure from prior Commission practice with regard to enforcement of buildout requirements. However, the enforcement regime was also novel in other respects, including its adoption of the keep-what-you-use rules. Therefore, the suggestion that the Commission should eliminate one element in order to conform to prior practice is unpersuasive. The Commission also rejects the assertion that the Commission acted without notice. The Commission twice sought comment broadly on how to revise the performance requirements, and the Commission finds that adoption of measures to enforce such requirements are well within the scope of the issues raised. The Commission also notes that the Commission is not obligated to provide APA notice to impose a forfeiture pursuant to section 503 of the Act.

22. The Commission rejects Blooston's argument that forfeitures are inappropriate because, in failing to meet performance benchmarks, a licensee does not actually violate a rule but merely exercises an option under the rules to lose a given area. The *700 MHz Second Report and Order* is clear that the benchmarks are requirements, and § 27.14 imposes these buildout requirements without qualification, providing that EA and CMA licenses

> shall provide signal coverage and offer service over at least 35 percent of the geographic area of each of their license authorizations no later than June 13, 2013'') (emphasis added).

23. Finally, the Commission notes that the Wireless Bureau has already clarified the conditions under which licensees may be subject to reduction in license area at the interim stage. The Commission does not rule out the Wireless Bureau providing further clarification, if necessary, regarding how the potential end-of-term enforcement measures will be applied after assessing progress toward and compliance with the interim benchmarks and any necessary enforcement in connection with those benchmarks.

5. Interim Construction Reports

24. In its petition for reconsideration, Blooston requests that the Commission eliminate the interim construction reports for all small and rural licensees. The Commission is not persuaded that this modification is warranted. First, the Commission does not agree that these reports impose unnecessary burdens on small licensees. The interim construction reporting requirements strengthen the Commission's ability to monitor build-out progress during the license term. Under the circumstances, where the Commission has stressed the importance of a timely build-out of the 700 MHz spectrum and has adopted performance requirements to meet this end, the Commission considers the information that is to be supplied in these reports to be reasonable and in the public interest. Further, the required information is readily available to licensees and can easily be reported to the Commission. The Commission merely requires licensees to provide the Commission with a description of the steps they have taken toward meeting their construction obligations in a timely manner, including the technology or technologies and service(s) they are providing and the areas in which those services are available. Accordingly, the Commission denies Blooston's request.

B. Auction-Related Issues

1. Designated Entity Eligibility for a Small Business Providing Wholesale Service

25. In its petition for reconsideration, Frontline argues that application of the impermissible material relationship rule to the C and D Blocks would be prejudicial to small businesses, especially those adopting a wholesale business model. Frontline asks the Commission to reinterpret the designated entity rules to allow small businesses with a wholesale model to maintain their eligibility for a bidding credit in the C and D Blocks. United States Cellular Corp. (U.S. Cellular) argues that the Commission properly applied the impermissible material relationship rule in the *700 MHz Second Report and Order* and opposes Frontline's proposal. PISC supports making a small business bidding credit available to a licensee that agrees to wholesale 100 percent of its spectrum if the Commission imposes specific conditions to prevent warehousing while ensuring non-discrimination, transparency, and spectrum efficiency.

26. On November 15, 2007, on its own motion, the Commission waived application of the impermissible material relationship rule for purposes of determining designated entity eligibility solely with respect to arrangements for lease or resale (including wholesale) of the spectrum capacity of the D Block license. The Commission found that the unique regulations governing the D Block license, which required the establishment of the 700 MHz Band Public/Private Partnership subject to a Commission-approved Network Sharing Agreement—together with the application of the Commission's other designated entity eligibility requirements—eliminated for the D Block license the risks that led the Commission to adopt the impermissible material relationship rule. This waiver applied to the D Block in Auction 73, which began on January 24 and closed on March 18, 2008.

27. Frontline did not qualify to participate in Auction 73. Frontline selected only the D Block license on its short-form application, but was unable to raise the $128.21 million necessary to make the required upfront payment for the D Block. The Wireless Bureau denied Frontline's request for a waiver to allow it to add the A and B Blocks, which included licenses that required lower upfront payments, to its short-form application after the deadline.

28. In *Council Tree Communications, Inc.* v. *FCC,* the U.S. Court of Appeals

for the Third Circuit held that the Commission's impermissible material relationship rule in § 1.2110(b)(3)(iv)(A) had been adopted without the notice and opportunity for comment required by the Administrative Procedure Act. The court vacated the rule, but also concluded that it would be imprudent and unfair to order rescission of the auction results for Auction 73. The Commission subsequently conformed the Commission's rules to the court's mandate by deleting § 1.2110(b)(3)(iv)(A).

29. The Commission's November 15, 2007 waiver of the impermissible material relationship rule rendered moot Frontline's petition for reconsideration with respect to the D Block license, and the Commission therefore dismisses that portion of the petition as moot. Frontline's arguments with respect to the D Block are also moot because the D Block will not be re-auctioned since Congress recently directed the Commission to reallocate the D Block spectrum for use by public safety entities. 47 U.S.C. 1411(a); Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 6101 (2012) (Spectrum Act). The Commission also dismisses as moot Frontline's petition to the extent it addresses designated entity status for wholesale services in the C Block, because the Third Circuit vacated the impermissible material relationship rule that is the subject of Frontline's petition. In accordance with the court's mandate the Commission has deleted the relevant provision from the Commission's Part 1 competitive bidding rules.

2. Amount of Reserve Prices

30. In order to promote the statutory objectives in 47 U.S.C. 309(j)(3), including the efficient and intensive use of the electromagnetic spectrum as well as the recovery for the public of a portion of the value of the public spectrum resource, in the *700 MHz Second Report and Order* the Commission directed the Wireless Bureau to adopt and publicly disclose block-specific aggregate reserve prices pursuant to its existing delegated authority and its regular pre-auction process. The Commission concluded that the aggregate reserve prices should reflect current assessments of the potential market value of licenses for the 700 MHz Band and directed that this assessment be based on various factors, including the characteristics of the band and the value of other recently auctioned licenses, such as licenses for Advanced Wireless Services. The Commission further indicated that if the reserve price for a particular block was not met in the initial auction, a subsequent auction of alternative licenses in that block would be subject to the same applicable reserve price as the initial auction of licenses. The Commission concluded

> that in the event that auction results for conditioned Upper 700 MHz C Block licenses do not satisfy the aggregate reserve price for the C Block, the Commission will offer as soon as possible licenses for the C Block without the open platform conditions.

With respect to the D Block, given the unique service rules for the Public/Private Partnership in that block, the Commission concluded that if the aggregate reserve was not met, that the Commission would leave open the possibility of re-offering the license on the same terms in a subsequent auction, as well as the possibility of re-evaluating all or some of the applicable license conditions. Based on the Commission's direction in the *700 MHz Second Report and Order,* and after additional public notice and comment, the Wireless Bureau set the following aggregate reserve prices for Auction 73: Block A, $1.807380 billion; Block B, $1.374426 billion; Block C, $4.637854 billion; Block D, $1.330000 billion; Block E, $0.903690 billion.

31. In its petition for reconsideration, Frontline argues that the reserve prices for the C and D Block licenses proposed, and ultimately adopted, by the Wireless Bureau based on the Commission's guidance in the *700 MHz Second Report and Order* are arbitrarily high and, coupled with re-auction mechanisms, undermine the open access provisions for the C Block and the public safety provisions for the D Block. MetroPCS filed in opposition to Frontline's petition for reconsideration on this issue.

32. Subsequent to the Commission's order waiving the impermissible material relationship rule with respect to leasing or resale of the spectrum capacity of the D Block license, Frontline filed an amendment to its petition for reconsideration withdrawing its argument that the reserve prices were set arbitrarily high and stating that it no longer advocates altering the reserve prices for the 700 MHz auction.

33. In light of Frontline's withdrawal of its arguments with respect to the Auction 73 reserve prices, the Commission dismisses this portion of Frontline's petition for reconsideration.

3. Re-Auction Procedures

34. MetroPCS asks the Commission to reconsider two issues related to the re-auction of 700 MHz licenses contemplated by the *700 MHz Second Report and Order.* First, MetroPCS requests reconsideration of the Commission's determination that, for any 700 MHz re-auction, the auction of alternative licenses would be subject to the same applicable reserve prices as the initial auction of licenses. Second, MetroPCS requests reconsideration of the Commission's determination that both the initial and any required follow-on auction would be treated as a single auction for purposes of the application of § 1.2105(c), the rule prohibiting certain communications. The prohibition generally applies to auction applicants during the time period between the deadline for filing short-form applications and the deadline for winning bidders to make their down payments. Treating the initial auction and subsequent auction of alternative licenses as a single auction would have kept the prohibition in place for all applicants to participate in the first auction until the down payment deadline for the second auction, regardless of whether they were applicants to participate in the second auction. CTIA—The Wireless Association (CTIA), U.S. Cellular, Blooston, and RTG support MetroPCS's proposal that the Commission allow applicants that do not wish to participate in the second auction, to opt out of the second auction to avoid continued application of the rules prohibiting certain communications.

35. The winning bids in Auction 73 for the Lower 700 MHz A, B, and E Block licenses and the Upper 700 MHz C Block licenses exceeded the aggregate reserve prices for those blocks; however, the provisionally winning bid for the Upper 700 MHz D Block did not meet the applicable reserve price. On March 20, 2008, two days after the close of Auction 73, the Commission issued an order electing not to re-offer the D Block license immediately in Auction 76 in order to allow additional time to consider options for this spectrum. More recently, Congress directed the Commission to reallocate the D Block spectrum for use by public safety entities. As a result, the D Block spectrum will not be assigned by auction for commercial use.

36. Because the Commission decided not to re-auction the D Block license immediately, and Congress has since directed the Commission to reallocate the D Block for public safety use, the re-auction of the D Block has not occurred and will not occur. As a result, the reserve price for any re-auction of the D Block is now irrelevant. In addition, the issue is also moot as to the other blocks because the bids in those blocks exceeded the applicable reserve prices,

thereby obviating the need for any follow-on auctions. Accordingly, the § 1.2105(c) prohibition on certain communications, as applied to the Auction 73 applicants for licenses in those blocks, ended at the down payment deadline for that auction. The Commission therefore dismisses as moot MetroPCS's petition for reconsideration of these issues related to the re-auction.

4. Prohibition of Certain Communications

37. In its petition for reconsideration, PISC requests that the Commission declare that two or more bidders working together to block another bidder from winning any licenses would violate § 1.2105(c) of the Commission's rules, which prohibits certain communications. PISC argues that in the *700 MHz Second Report and Order,* the Commission failed to address PISC's request to clarify

> whether a conspiracy to block a bidder from winning any licenses, rather than a conspiracy to distribute licenses or set the price for licenses, [violates section 1.2105(c). PISC argues that] a conspiracy among bidders to block potential rivals—even if they plan to bid aggressively against one another—thwarts the goals of Congress in distributing licenses via auction.

38. The Commission denies PISC's request for a declaratory ruling on the application of § 1.2105(c) to certain types of activity by bidders who work together. The Commission has discretion whether to issue a declaratory ruling, and rather than address PISC's request in this proceeding, the Commission thinks it's best to address such issues as they arise. The declaratory ruling PISC seeks would likely be of very limited benefit given the hypothetical general circumstances it describes. The Commission also notes that regardless of compliance with § 1.2105(c), auction applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace, and conduct that is permissible under the Commission's rules may be prohibited by the antitrust laws.

5. Anonymous Bidding

39. In the *700 MHz Second Report and Order,* the Commission concluded that the public interest would be served by the use of anonymous bidding procedures in Auction 73. The Commission found that the record indicated that implementing anonymous bidding procedures would reduce the potential for anti-competitive bidding behavior, including bidding activity that aims to prevent the entry of new competitors. The Commission noted that its decision did not rely upon studies conducted by Gregory Rose and submitted by PISC, even though those studies were offered as evidence that anonymous bidding would be beneficial. As described in detail in footnotes 644 and 645 of the *700 MHz Second Report and Order,* the Commission did not find the Rose studies persuasive for a variety of reasons.

40. PISC does not challenge the Commission's decision to employ anonymous bidding in Auction 73, but argues that the Commission's conclusions regarding the merits of the Rose studies were inaccurate and arbitrary, and that footnotes 644, 645, and 655 (which relies upon footnotes 644 and 645) should be vacated. PISC adds that given the Commission's decision to adopt anonymous bidding, it was unnecessary and unusual for it to address the merits of the Rose studies in footnotes.

41. The Commission denies PISC's request to vacate the footnotes describing potential flaws in the Rose studies. PISC's petition for reconsideration presents additional information regarding the Rose studies that provides useful context but does not change the validity of the footnotes with respect to the studies as filed. Footnotes 644, 645, and 655 in the *700 MHz Second Report and Order* explain that the Commission's adoption of anonymous bidding, although advocated by the Rose studies, did not depend upon those studies.

C. Spectrum Eligibility

42. Frontline, PISC, and RTG filed petitions requesting that the Commission reconsider its decision not to impose spectrum aggregation limits. Frontline requests that the Commission implement a spectrum screen that would trigger increased review of certain long-form auction applications for anticompetitive effects, similar to the screen applied to merger and acquisition transactions. PISC proposes that the Commission adopt a rule prohibiting the winner of the Upper 700 MHz D Block license from holding Upper 700 MHz C Block licenses and vice versa. RTG proposes an interim, geographically based spectrum cap applicable specifically to the 700 MHz auction.

43. In the *700 MHz Second Report and Order,* the Commission considered and declined to adopt license eligibility restrictions, including rules that would have excluded ILECs, incumbent cable operators, and large wireless carriers from holding licenses in the 700 MHz Band. The Commission provided numerous reasonable justifications for its decision, and the Commission finds that Frontline, PISC, and RTG offer no new evidence warranting the Commission's reconsideration of the Commission's decision on spectrum aggregation limits at the initial licensing stages of the 700 MHz Band. Further, the Commission notes that the appropriate policies regarding spectrum holdings going forward are the subject of a separate and pending rulemaking proceeding, and any further consideration of such issues is therefore more appropriately considered in that context. Therefore, the Commission denies Frontline's request for heightened review of certain long-form applications, and the Commission denies PISC's and RTG's requests that the Commission impose a spectrum cap. Finally, the Commission concludes that Congress's direction that the Commission reallocate the D Block spectrum to public safety use has rendered moot requests by Frontline and PISC that the Commission not permit the C Block auction winners to hold a D Block license or D Block auction winners to hold C Block licenses.

D. Lower 700 MHz A Block Wholesale Requirement

44. In its petition for reconsideration, NTCH, Inc. (NTCH) argues that the Commission should reform the current Universal Service Funding (USF) system by requiring Lower 700 MHz A Block licensees to provide service on a discounted wholesale basis to designated Eligible Telecommunications Companies. CTIA and U.S. Cellular oppose NTCH's proposal arguing, among other assertions, that the proposal is outside the scope of what can be granted on reconsideration of the *700 MHz Second Report and Order.*

45. NTCH presents a new proposal to impose a discounted wholesale obligation on Lower 700 MHz A Block licensees and argues that the Commission should adopt it as a means of reforming the current USF system, but does not challenge the Commission's refusal, in the *700 MHz Second Report and Order,* to adopt wholesale requirements for the Upper 700 MHz C or D Block licensees. The Commission agrees with CTIA and U.S. Cellular that the USF issues raised in NTCH's proposal are outside the scope of this proceeding and therefore denies NTCH's petition. The Commission notes that, as with other 700 MHz licensees, A Block licensees have the flexibility to provide wholesale services if they choose to based on their determination of market need.

E. First Amendment Analysis of Open Platform Rule

46. In the *700 MHz Second Report and Order,* the Commission required licensees in the C Block

> to allow customers, device manufacturers, third-party application developers, and others to use or develop the devices and applications of their choice, subject to certain conditions[.]

The Commission rejected Verizon Wireless' arguments that the open platform rule applicable to the Upper 700 MHz C Block violates the First Amendment, finding that even if the open platform rule did implicate the First Amendment, it withstands the applicable intermediate scrutiny test.

47. In late 2007, Verizon Wireless and CTIA each filed and then withdrew lawsuits in the DC Circuit Court challenging the open platform requirements on the grounds that they violated the First Amendment. Prior to Verizon Wireless's withdrawal of its petition for review from the DC Circuit Court, PISC filed its petition for reconsideration with the Commission requesting, in pertinent part, that the Commission clarify that

> the proper framework for Verizon's First Amendment claim remains the 'rational basis' flowing from the 'scarcity rationale' adopted by the Supreme Court in *NBC* v. *U.S.*

48. In light of the withdrawal of the Verizon Wireless and CTIA First Amendment challenges to the open platform rule, PISC's request for clarification of the proper legal framework for addressing Verizon Wireless's withdrawn challenge is moot, and the Commission accordingly dismisses PISC's petition for reconsideration as such, to the extent the petition requested such clarification.

F. Open Platform Requirements for the C Block if the Reserve Price Is Not Met

49. In its petition for reconsideration, Frontline argues that stripping the C Block of the open platform conditions in the event of a re-auction would be contrary to the public interest and would create perverse incentives for bidders. The C Block auction was successful and has been completed, rendering any discussion of an unsuccessful auction and the terms of a re-auction of the C Block moot. Therefore, the Commission dismisses Frontline's petition for reconsideration to the extent that it seeks the Commission to reconsider the conditions of a re-auction of the C Block.

G. 700 MHz Public/Private Partnership

50. Several of the pending petitions in this proceeding seek reconsideration or clarification of various aspects of the regulatory requirements adopted by the Commission to effectuate and govern the Public/Private Partnership between the Upper 700 MHz D Block licensee and the future licensee of the 700 MHz public safety broadband spectrum (the Public Safety Broadband Licensee or PSBL). The Commission finds that the directives in the Spectrum Act regarding the D Block render moot the requests for reconsideration or clarification of the Commission D Block commercial service rules, and the Commission therefore dismisses these requests.

H. Narrowband Relocation

51. Commonwealth of Virginia (Virginia) and Pierce County Public Transportation Benefit Area Corporation (Pierce Transit) filed petitions seeking reconsideration of certain aspects of the decisions on public safety narrowband relocation.

52. The *700 MHz Second Report and Order* assumed that the D Block would be licensed to a commercial provider that would be responsible, up to a cap, for the costs of the narrowband relocation. Now that the D Block has been reallocated for public safety services pursuant to the Spectrum Act, the approach that the Commission established for effectuating the consolidation of the narrowband channels cannot be implemented, and the Commission must revisit the entire narrowband relocation process (including elements such as those relating to reimbursement and the timing of relocation), which the Commission will accomplish by initiating a new rulemaking proceeding where the Commission can address more comprehensively what rules need to be adopted, deleted, or modified to implement the Spectrum Act. Accordingly, the Commission dismisses the petitions for reconsideration by Virginia and Pierce Transit as moot.

III. Ordering Clause

53. Accordingly, *it is ordered,* pursuant to sections 4(i), 302, 303(e), 303(f), 303(g), 303(r) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g) and 405, that the petitions for reconsideration of Blooston Rural Carriers, NTCH, Inc., and Rural Telecommunications Group, Inc. *Are denied;* the petitions for reconsideration of AT&T, Inc., Commonwealth of Virginia, Cyren Call Communications Corporation, and Pierce County Public Transportation Benefit Area Corporation *are dismissed;* and petitions for reconsideration of Frontline Wireless, LLC, MetroPCS Communications, Inc., and Ad Hoc Public Interest Spectrum Coalition *are denied in part* and *dismissed in part* as described herein.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–07397 Filed 3–29–13; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 78, No. 62
Monday, April 1, 2013

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 HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0078]

RIN 1625–AA00

Safety Zones; Annual Independence Day Fireworks Displays, Skagway, Haines, and Wrangell, AK

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish the following three permanent safety zones on the navigable waters of (1) Taiya Inlet in the vicinity of on the White Pass and Yukon Railway Dock, Skagway; (2) Portage Cove, Haines and; (3) Wrangell Harbor, Wrangell, Alaska. These proposed safety zones are necessary to protect spectators and vessels from the hazards associated with the annual Independence Day Fireworks Displays held in each location. This rule is intended to restrict all vessels from a portion of the navigable waters in the immediate vicinity of the fireworks launch platforms, before, during and immediately after the fireworks event.

DATES: Comments and related material must be received by the Coast Guard on or before May 31, 2013.

Requests for public meetings must be received by the Coast Guard on or May 1, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Patrick Drayer, Waterways Management Division, U.S. Coast Guard Sector Juneau, telephone 907–463–2465, email *Patrick.A.Drayer@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0078] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0078) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time

and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The Coast Guard has previously issued temporary final rules establishing safety zones for fireworks displays occurring on the waters in the vicinity of Haines, Skagway and Wrangell, AK (77 FR 39172). This rule proposes to establish three permanent safety zones for the annually recurring Independence Day fireworks displays in Haines, Skagway and Wrangell and is expected to reduce the administrative burden associated with the creation of temporary safety zones each year.

C. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The cities of Skagway, Haines, and Wrangell, Alaska hold fireworks displays on or about the July 4th of each year to celebrate Independence Day. The fireworks will be launched from a barge or waterfront facility. This proposed rule is necessary to ensure the safety of spectators and vessels from hazards associated with fireworks. Fireworks launched in close proximity to watercraft pose a significant risk to public safety and property. Such displays draw large numbers of spectators on vessels. The combination of a large number of spectators, congested waterways, darkness punctuated by bright flashes of light, and burning debris has the potential to result in serious injuries or fatalities. The proposed safety zones will restrict vessels from operating within a portion of the navigable waters around the fireworks launch platforms during the enforcement period which will be immediately before, during, and immediately after the fireworks displays.

D. Discussion of Proposed Rule

The Coast Guard proposes to establish three permanent safety zones on the navigable waters of Taiya Inlet, Skagway; Portage Cove, Haines; and Wrangell Harbor, Wrangell, AK. The proposed safety zones are necessary to ensure the safety of spectators and vessels from hazards associated with fireworks displays. Each safety zone will include the navigable waters within a 300-yard radius around the fireworks launch platform. The fireworks displays are expected to occur between 11:00 p.m. and 11:45 p.m. In order to coordinate the safe movement of vessels within the area and to ensure that the area is clear of unauthorized persons and vessels before, during, and immediately after the fireworks launch, these zones will be enforced from 10 p.m. until 2:30 a.m. This effective period of the safety zones is to account for the possibility that if the fireworks displays are postponed because of inclement weather, we would be able to adjust the enforcement period of the safety zones. The specific date and duration of the enforcement period will be announced in the Local Notices to Mariners and maritime advisories widely available to mariners.

Vessels will be able to transit the surrounding area and may be authorized to transit through the proposed safety zone with the permission of the COTP or the designated representative. Before activating the zones we will notify mariners by appropriate means including but not limited to Local Notice to Mariners and Broadcast Notice to Mariners.

This rule is being proposed to provide for the safety of life on the navigable waters during the events, and to give the public the opportunity to comment on the proposed safety zone locations, size, and length of time the zone will be activated.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard's enforcement of these proposed safety zones will be of short duration, approximately three hours. Furthermore, vessels may be authorized to transit through the proposed safety zones with the permission of the COTP.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners and operators of vessels intending to transit, anchor, or fish in a portion of the navigable waters of Taiya Inlet, Skagway; Portage Cove, Haines; and Wrangell Harbor, Wrangell, AK; during the periods of enforcement of these proposed safety zones.

These proposed safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons. These proposed safety zones would be subject to enforcement only immediately before, during, and immediately after the firework displays that may occur from July 3 at 10 p.m. ADT until 2:30 a.m. ADT on July 5 each year. Vessel traffic could pass safely around the proposed safety zones. Before the enforcement of any of the safety zones, we would issue maritime advisories widely available to users of the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of three permanent safety zones on the navigable waters of Taiya Inlet, Skagway; Portage Cove, Haines; and Wrangell Harbor, Wrangell, AK, respectively. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

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

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

■ 2. Add § 165.1712 to read as follows:

§ 165.1712 Safety Zones; Annual Independence Day Firework Displays, Skagway, Haines, and Wrangell, AK.

(a)*Regulated Areas.* The following areas are permanent safety zones: (1) All navigable waters of Taiya Inlet within a 300-yard radius of the fireworks launching point located on the White Pass and Yukon Railway Dock at approximate position 59°26.70′ N, 135°19.58′ W in the vicinity of the mouth of the Small Boat Harbor, Skagway, Alaska; (2) all navigable waters of Portage Cove, Haines, AK within a 300-yard radius around the fireworks launch area, centered at approximate position 59°14′16.72″ N, 135°25′35.79″ W; (3) all navigable waters of Wrangell Harbor within a 300-yard radius of the fireworks launch platform centered at approximate position 56°28.223′ N and 132°23.285′ W.

(b) *Effective date.* This rule will be effective from 10 p.m. on July 3 until 2:30 a.m., July 5, of each year.

(c) *Definitions.* The following definitions apply to this section: (1) Designated Representative—a ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, to act on his or her behalf.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply. (2) No vessels, except for fireworks barge and accompanying vessels, will be allowed to transit the safety zones without the permission of the COTP or the designated representative. (3) Vessel operators desiring to enter or operate within any of the regulated areas shall contact the COTP or the designated representative via VHF channel 16 or 907–463–2990 (Sector Juneau command center) to obtain permission to do so.

Dated: February 19, 2013.

M.N. Jones,

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

[FR Doc. 2013–07482 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0082; FRL–9795–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Transportation Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of amending existing regulation 9VAC5 Chapter 151 in order to incorporate Federal revisions to transportation conformity requirements. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because EPA 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, 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.

DATES: Comments must be received in writing by May 1, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0082, by one of the following methods:

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

B. *Email: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2013–0082, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0082. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the Commonwealth's submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Transportation Conformity Regulations,'' that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. 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.

Dated: March 20, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–07383 Filed 3–29–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 450

[EPA–HQ–OW–2010–0884; FRL–9794–6]

RIN 2040–AF44

Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing changes to the effluent limitations guidelines and standards for the Construction and Development point source category. EPA is proposing these changes pursuant to a settlement agreement to resolve litigation. This proposed rule would withdraw the numeric discharge standards, which are currently stayed, and change several of the non-numeric provisions of the existing rule.

DATES: Comments must be received on or before May 31, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2010–0884, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: OW-Docket@epa.gov,* Attention Docket Id. No. EPA–HQ–OW–2010–0884.
- *Mail:* Water Docket, Environmental Protection Agency, Docket Number EPA–HQ–OW–2010–0884, Mailcode: 4203M, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* Water Docket, USEPA Docket Center, Room 3334, EPA West Building, 1301 Constitution Ave. NW., Washington, DC 20004. Attention

Docket Id. No. EPA–HQ–OW–2010–0884. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2010–0884. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the 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 USEPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse W. Pritts at Engineering and Analysis Division, Office of Water (4303T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–1038; fax number: 202–566–1053; email address: *pritts.jesse@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities	North American industry classification system (NAICS) code
Industry	Construction activities required to obtain NPDES permit coverage and performing the following activities:	
	Construction of buildings, including building, developing and general contracting.	236
	Heavy and civil engineering construction, including land subdivision	237

EPA does not intend the preceding table to be exhaustive, but provides it as a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria at 40 CFR 450.10 and the definition of ''storm water discharges associated with industrial activity'' and ''storm water discharges associated with small construction activity'' in existing EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular site, consult one of the persons listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Overview

This preamble describes the terms, acronyms, and abbreviations used in this document; the legal authority of this proposed rule; background information; and a summary of the proposed changes.

Table of Contents

I. Legal Authority
II. Purpose & Summary of the Proposed Rule
III. Statutory and Executive Order Reviews

I. Legal Authority

EPA is proposing these regulations under the authorities of sections 101, 301, 304, 306, 308, 401, 402, 501 and 510 of the Clean Water Act (CWA), 33 U.S.C. 1251, 1311, 1314, 1316, 1318, 1341, 1342, 1361 and 1370 and pursuant to the Pollution Prevention Act of 1990, 42 U.S.C. 13101 et seq.

II. Purpose & Summary of the Proposed Rule

A. Background

EPA promulgated Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category (hereafter referred to as the ''C&D rule'') (74 FR 62995, Dec. 1, 2009). The final rule established requirements based on Best Practicable Control Technology Currently Available, Best Available Technology Economically Achievable, Best Conventional Pollutant Control Technology, and New Source Performance Standards based on Best Available Demonstrated Control Technology.

The rule included non-numeric requirements to:

- Implement erosion and sediment controls;
- Stabilize soils;
- Manage dewatering activities;
- Implement pollution prevention measures;

• Prohibit certain discharges; and
• Utilize surface outlets for discharges from basins and impoundments.

The December 2009 final rule also established a numeric limitation on the allowable level of turbidity in discharges from certain construction sites. The technology basis for the final numeric limitation was passive treatment controls including polymer-aided settling to reduce the turbidity in discharges.

Following promulgation of the December 2009 final C&D rule, the Wisconsin Home Builders Association, the National Association of Home Builders (NAHB) and the Utility Water Act Group (UWAG) filed petitions for review in the U.S. Circuit Courts of Appeals for the Fifth, Seventh, and D.C. Circuits. The petitions were consolidated in the Seventh Circuit. *Wisconsin Builders Association, et al.* v. *EPA,* Case Nos. 09–4113, 10–1247, and 10–1876 (7th Cir.). On July 8, 2010, the petitioners filed their briefs.

In April 2010, the Small Business Administration (SBA) filed with EPA a petition for administrative reconsideration of several technical aspects of the C&D Rule. SBA identified potential deficiencies with the dataset that EPA used to support its decision to adopt the numeric turbidity limitation. In June 2010, NAHB also filed a petition for administrative reconsideration with EPA incorporating by reference SBA's argument regarding the deficiencies in the data.

On August 12, 2010, EPA filed an unopposed motion with the Court seeking to hold the litigation in abeyance until February 15, 2012 (see EPA–HQ–OW–2010–0884–0085) and asking the Court to remand the record to EPA and vacate the numeric limitation portion of the rule. In addition, EPA agreed to reconsider the numeric limitation and to solicit site-specific information regarding the applicability of the numeric effluent limitation to cold weather sites and to small sites that are part of a larger project.

On August 24, 2010, the Court issued an order remanding the matter to the Agency but without vacating the numeric limitation. Subsequently on September 9, 2010, the petitioners filed an unopposed motion for clarification or reconsideration of the Court's August 24, 2010 order, asking the Court again to vacate the numeric limitation. On September 20, 2010, the Court remanded the administrative record to EPA, and ordered the case held in abeyance until February 15, 2012, but did not vacate the numeric limitation. EPA added additional information to the docket to supplement the administrative record for the C&D rule (see EPA–HQ–OW–2008–0465–2124 through EPA–HQ–OW–2008–0465–2134) and an updated response to comment document (see EPA–HQ–OW–2008–0465–2135) during this period.

In November 2010, EPA issued a direct final regulation and a companion proposed regulation to stay the numeric limitation at 40 CFR 450.22 indefinitely (75 FR 68215, November 5, 2010 and 75 FR 68305, November 5, 2010). The proposed rule solicited comment due no later than December 6, 2010. Since no adverse comments were received, the direct final rule took effect on January 4, 2011.

States are no longer required to incorporate the numeric turbidity limitation and monitoring requirements found at § 450.22(a) and § 450.22(b) into NPDES permits because the numeric limitation was stayed. However, the remainder of the regulation is still in effect and must be incorporated into newly issued NPDES permits.

After issuing the stay of the numeric turbidity limitation, EPA continued to consult with stakeholders regarding next steps with respect to numeric discharge standards. EPA published a **Federal Register** notice (77 FR 112, January 3, 2012) seeking data on the effectiveness of technologies in controlling turbidity in discharges from construction sites and information on other related issues. The Agency is currently considering data and comments submitted in response to this notice.

EPA also continued to meet with the petitioners in an effort to settle the litigation over the C&D rule. On December 10, 2012, EPA entered into a settlement agreement with petitioners to resolve the litigation (see *Wisconsin Builders Association, et al.* v. *EPA,* Case Nos. 09–4113, 10–1247, and 10–1876 (7th Cir.)). The settlement agreement provides for EPA to propose for public comment certain changes specific to the non-numeric portions of the rule, as well as withdrawal of the numeric limitation, and take final action on the proposal. Under the terms of the settlement agreement, by April 15, 2013 EPA is to sign for publication in the **Federal Register** a notice of proposed rulemaking, with at least a 30-day comment period, to amend the C&D Rule in a manner substantially similar to Exhibit A, which is attached to the Settlement Agreement. The settlement then provides that by February 28, 2014, EPA will take final action on the proposed rule. Under the settlement, if EPA takes the above actions by the specified dates, and EPA's final action on the proposed rule amends the C&D Rule in any manner, then Petitioners and EPA will promptly file a joint request with the Court asking it to dismiss the C&D litigation. In addition, if EPA's final action amends the C&D Rule in a manner substantially similar to Exhibit A, Petitioners will not seek judicial review of those amendments. Finally, within 60 days after EPA signs the proposal mentioned above, NAHB and EPA will file a joint request with the Court to dismiss NAHB's challenge to the 2012 Construction General Permit (CGP), which EPA issued on February 16, 2012 (see 77 FR 12286).

B. Proposed Revisions to 40 CFR Part 450

The proposed revisions to 40 CFR part 450 consist of the following three elements:

• Addition of a definition of ''infeasible'' consistent with the preamble to the 2009 final rule and 2012 CGP;
• Revisions to the effluent limitations reflecting the best practicable control technology currently available (BPT), effluent limitations reflecting the best available technology economically achievable (BAT), effluent limitations reflecting the best conventional pollutant control technology (BCT), and the new source performance standards reflecting the best available demonstrated control technology (NSPS) found at 40 CFR 450.21, 450,22, 450.23 and 450.24, respectively; and
• Withdrawing the numeric turbidity effluent limitation and monitoring requirements found at 40 CFR 450.22(a) and 450.22(b) and reserving these subparts.

EPA is proposing these revisions in order to meet the terms of the settlement agreement and to make the rules clearer and more transparent to the public. As written, stakeholders believe, and EPA agrees, that there is some ambiguity surrounding when and where these provisions should apply and what exceptions apply. EPA believes that these proposed changes will provide clarity to permitting authorities on how to implement or incorporate these provisions into permits. EPA solicits comments on the following specific changes.

1. Addition of Definition at 40 CFR 450.11

EPA proposes to add a definition of infeasible at 40 CFR 450.11(b). Several of the provisions of the C&D rule require permittees to implement controls, unless infeasible. EPA did not provide a definition of infeasible in the C&D

rule. However, EPA did provide a description of what the Agency meant by infeasible in the preamble to the C&D rule (74 FR 63017), Dec. 1, 2009). This discussion stated:

''By infeasible, EPA means that there is a site-specific constraint that makes it technically infeasible to implement the requirement, or that implementing the requirement would be cost-prohibitive. The burden is on the permittee to demonstrate to the permitting authority that the requirement is infeasible.''

Although this discussion described EPA's intention regarding relief from specific requirements in the C&D rule in cases where a requirement is infeasible, there is concern that since this description is contained in the preamble instead of the rule that there may be inconsistent interpretation by permitting authorities of what constitutes infeasibility. Including a definition of what EPA means by infeasible in the rule would provide clarity and consistency for permittees.

EPA proposes to add the following definition of infeasible, which was derived from EPA's preamble language from the 2009 final rule cited above and the 2012 CGP:

Infeasible means not technologically possible, or not economically practicable and achievable in light of best industry practices.

EPA solicits comment on the inclusion of this proposed definition.

2. Revision of 40 CFR 450.21(a)(1)

This requirement, as currently written, requires permittees to ''Control stormwater volume and velocity within the site to minimize soil erosion.'' EPA proposes to amend this requirement as follows:

Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges.

EPA is proposing this change in order to link the requirement to control soil erosion to the discharge of pollutants. EPA is proposing to eliminate the ''within the site'' clause because it is unnecessary as the regulation applies by definition to all discharges from the entire construction site. The proposed change would continue to allow permitting authorities the ability to develop permit language to control stormwater volume and velocity to minimize soil erosion at any location, such as on slopes as well as within channels and conveyances, that may contribute pollutants to discharges from the construction site. EPA solicits comment on this proposed change.

(a) Examples of appropriate controls for this provision.

Control of volume and velocity of stormwater in conveyances where concentrated flow occurs, as well as control of volume and velocity of overland flow, are necessary to reduce mobilization, transport and discharge of sediment and other pollutants. EPA notes that this requirement reflects common practice for water handling on construction sites. The need for effective erosion control practices is an important component of stormwater management on construction sites and is well-known and described in available references. See, for example, the Virginia Erosion and Sediment Control Handbook, Third Edition, which states at page II–14:

''The removal of existing vegetative cover and the resulting increase in impermeable surface area during development will increase both the volume and velocity of runoff. These increases must be taken into account when providing for erosion control.''

Practices described in this handbook, also at page II–14, that are appropriate for managing the volume and velocity of stormwater are described as follows:

*''Keeping slope lengths short and gradients low and preserving natural vegetative cover can keep stormwater velocities low and limit erosion hazards. Runoff from the development should be safely conveyed to a stable outlet using storm drains, diversions, stable waterways, riprapped channels or similar measures * * * Conveyance systems should be designed to withstand the velocities of projected peak discharges. These practices should be operational as soon as possible after the start of construction.''*

Additional examples of appropriate controls to address this provision include management of concentrated flows through the use of channel liners or other stabilization measures to minimize erosion caused by flowing water in channels, use of pipe slope drains to move water down slopes to minimize erosion, use of check dams in channels to reduce flow velocities and minimize erosion, and use of sediment basins and traps to provide detention and reduction in peak flowrates, which minimizes downslope erosion. Examples of practices to reduce volume and velocity of stormwater with respect to overland or other non-concentrated flow on site include the use of slope breaks such as berms to slow water as it flows down slopes and the use of cover materials such as mulches and vegetative stabilization on slopes to reduce the velocity of stormwater flowing down the slopes.

During construction, the volume and rate of runoff increases, which relates to a corresponding increase in the discharge of pollutants to receiving waters. Erosion of soil particles is caused by both rainfall impact energy as well as the energy of flowing water. Water flowing over soil as overland flow, as well as concentrated flow overland and in conveyances (such as channels), causes detachment of soil particles and transport of these particles downslope. These particles can be discharged from the construction site along with the stormwater. While removal of some particles in downslope sediment controls (e.g., sediment basins) can be accomplished, these sediment controls are generally not 100% effective in removing entrained soil particles. Therefore, some portion of soil that is mobilized (and the pollutants associated with those soil particles) can be discharged from the construction site even after passing through sediment controls.

Controlling stormwater volume and velocity reduces the amount of erosion caused by flowing water, and therefore can reduce the amount of sediment, turbidity and other pollutants discharged from the site. For example, a particular sediment basin may be capable or removing all particles above 40 microns in diameter through settling. If the stormwater flowing to the sediment basin during a particular storm event contains 1,000 pounds of soil, 80% of which is above 40 microns, then the basin would remove 80% (or 800 pounds) of the sediment while 20% (or 200 pounds) would not be removed and would be discharged. However, if during this same storm event upslope volume and velocity controls were not implemented, then one would expect a larger quantity of sediment to be eroded and transported to the sediment basin. In this scenario, if the total quantity of sediment transported to the basin for this event is twice as much because upslope volume and velocity controls were not implemented, then the amount of sediment not removed by the basin is 20% of 2,000 pounds, or 400 pounds. This is twice as much as discharged from the example where upslope controls to reduce erosion were implemented. Therefore, reducing the volume and velocity of stormwater, which reduces the amount of erosion, can directly reduce the quantity of sediment and associated pollutants that are discharged.

(b) What does EPA not mean by this requirement?

EPA does not intend for this requirement to apply once construction has ceased and sites have been stabilized. This requirement only applies during the construction phase, and does not apply to post-construction conditions.

(c) What is the appropriate time for implementation of this requirement in the construction process?

The proper time for implementation of controls to manage both the total volume and velocity of stormwater to minimize erosion depends on the nature of the control. Some practices (such as sediment basins) should be installed very early in the construction process so that they are functioning and able to accept runoff from up-slope disturbed areas. Other practices may be installed later in the construction process as they are needed. For example, a sediment basin may be designed to accept water from several catchments in a project, all of which may not be disturbed at the same time. Prior to disturbance of an area, it may be appropriate to install a channel to divert runoff from the disturbed area to the basin. When this channel is installed, the need for velocity control measures such as a channel lining or check dams would necessitate that they be installed when the channel is constructed. The need for specific controls is site-specific, and will vary based on the nature of the construction activity.

3. Revision of 40 CFR 450.21(a)(2)

This requirement, as currently written, requires permittees to ''Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and streambank erosion.'' EPA proposes to amend this requirement as follows:

Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion in the immediate vicinity of discharge points.

EPA is proposing this change because the current requirement does not differentiate between any contribution to increased erosion caused by the construction site discharges and those caused by other sources. For example, a construction site may discharge to a stream that is being eroded due to changes in flow duration from an up-slope development. As currently written, this provision could be interpreted to require the permittee to minimize downstream erosion caused by the upslope discharges. It is not EPA's intention for this provision to require permittees to address streambank and channel erosion that is caused by other sources. This revision would require permittees to only address erosion that occurs in the immediate vicinity of permitted outfalls. Examples may include scouring of the stream bed and erosion of the near and far banks at and in the area immediately downstream of where an outfall from a sediment basin discharges to a stream. Permitting authorities can develop specific permit language to address this erosion, and appropriate controls may include the use of stabilized outlets and use of detention practices, such as sediment basins, to limit peak flowrates and flow duration of discharges. EPA solicits comment on this proposed revision.

4. Revision of 40 CFR 450.21(a)(6)

This provision, as currently written, requires permittees to ''Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible.'' EPA proposes to amend this requirement as follows:

Provide and maintain natural buffers around waters of the United States, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible.

EPA is proposing two changes to this provision. The first change would replace ''surface waters'' with ''waters of the United States.'' EPA is proposing this change because ''surface waters'' is not defined in the context of the Clean Water Act and EPA always intended this to simply mean waters of the United States. The second proposed change to this provision would replace ''increase sediment removal'' with ''to reduce pollutant discharges'' and would move the location of this phrase within the requirement. This proposed change would provide clarity that the goal of the requirement to direct stormwater to vegetated areas and to maximize stormwater infiltration is to reduce pollutant discharges. EPA solicits comment on these proposed changes.

5. Revision of 40 CFR 450.21(a)(7)

This provision, as currently written, would require permittees to ''Minimize soil compaction and, unless infeasible, preserve topsoil.'' EPA proposes to amend this requirement, as well as separate the two provisions (minimizing soil compaction and preserving topsoil) into two separate requirements as follows:

Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.

Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

EPA is proposing to revise this provision because, as currently written, this requirement does not acknowledge that certain areas of the site may require compaction. Examples would be foundation pads for buildings or road subgrade material. Similarly, the requirement to preserve topsoil is being clarified. Although this requirement includes an ''unless infeasible'' clause, EPA believes that it is worth clarifying that preservation of topsoil is not required (although it may be feasible) where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

EPA solicits comment on these proposed changes.

(a) Discussion of minimizing soil compaction and preserving topsoil requirements.

These requirements are designed to reduce the amount of soil eroded and discharged from the site by reducing the amount of runoff generated and by providing conditions conducive to establishing vegetative stabilization. Compacting soil increases the amount of runoff produced. This is because compacted soil does not allow water to infiltrate as rapidly as loose soil. Minimizing soil compaction allows for infiltration and retention of stormwater within the soil, which reduces the amount of runoff. Reducing the amount of runoff will reduce erosion, and therefore reduce the amount of sediment and other pollutants that can be transported to sediment controls and through perimeter controls. Sediment controls and perimeter controls are not 100% effective in removing sediment and other pollutants, therefore reducing the amount of sediment and runoff directed to these controls will reduce the amount of pollutants discharged.

Topsoil improves soil structure and provides a favorable growing medium for temporary and permanent vegetative stabilization measures. Preserving topsoil allows for better vegetative stabilization when disturbance has ceased. Better vegetative stabilization reduces erosion rates of the underlying soil and also increases the infiltrative capacity of the soil. As stated above, reducing erosion rates and reducing the runoff volume will reduce the amount of sediment transported to downslope sediment and perimeter controls. Sediment controls and perimeter controls are not 100% effective in removing sediment and other pollutants, therefore reducing the amount of sediment and runoff directed to these controls will reduce the amount of pollutants discharged.

Preservation of topsoil also means limiting disturbance and removal of the topsoil and associated vegetation. Limiting clearing and grading to only

those areas where necessary to accommodate the building footprint is an example of topsoil preservation. Preserving topsoil in this manner would reduce the volume of stormwater produced as well as the quantity of sediment and other pollutants mobilized from these areas of preservation, which would reduce the amount of pollutants discharged from the site.

Topsoil stockpile areas, if used, should be prevented from eroding, which can be accomplished by using various cover materials. Use of temporary vegetative stabilization measures for topsoil areas may also be considered if the stockpiles are to remain on-site for an extended period of time before being used.

(2) What EPA does not mean by this requirement.

EPA notes that the ''minimize soil compaction'' language is meant to apply to those areas of the site where soil compaction is not necessary for structural or stability concerns. For example, EPA would not expect permittees to minimize compaction in areas where soil compaction is necessary by design, such as where roads, foundations, footings or other similar structures are to be built. Rather, this requirement is intended to apply to other areas of the site, such as those where vegetation is to be preserved or restored once disturbance has ceased. Although not a requirement of this rule, minimizing soil compaction may be necessary in areas of the site where post-construction controls are to be designed to infiltrate stormwater. Examples of these areas would be areas underneath porous pavement systems or areas where infiltration basins are to be installed. Consideration of soil compaction during the construction phase would be critical to ensuring proper operation of these types of practices.

EPA notes that some projects may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases (and perhaps others), preserving topsoil at the site would not be feasible since the topsoil would not be necessary for establishing vegetation. Another case where it may not be feasible to preserve topsoil would be if the topsoil is of poor quality or contaminated such that it would not be beneficial for establishing vegetation. Although poor topsoil may be improved through addition of soil amendments, there may be cases where this is not feasible. There may also be cases where keeping the topsoil on-site would conflict with other regulations or programs with respect to contaminated soils. For some projects where the construction envelope may encompass the entire land area, there may not be space available on-site to stockpile topsoil that is removed. In these cases, the use of off-site borrow or storage areas may be appropriate. In addition, topsoil may be sold for use on other projects where more topsoil is available than needed on-site. An example of an instance where it is not feasible to preserve all topsoil would be a situation where the topsoil is diverted to other uses because it is not needed on-site.

6. Revision of 40 CFR 450.21(b)

This provision, as currently written, would require permittees to stabilize disturbed areas. The requirement reads: ''Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permitting authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority.''

EPA proposes to amend this requirement as follows:

Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

The changes to this provision include re-arranging the requirements for clarity as well as providing a potential exemption from stabilization for certain areas of a site that the permitting authority has determined must remain disturbed. EPA can envision only limited cases where a disturbed area would not require stabilization because it should remain disturbed. An example would be a motocross track where unstabilized soil areas are present and are intended to remain present. EPA believes that permitting authorities should have the flexibility to evaluate the circumstances surrounding individual sites and have some flexibility related to this provision for these very limited cases. In the vast majority of situations, however, vegetative or non-vegetative stabilization measures would be required. EPA solicits comment on these proposed changes.

7. Revision of 40 CFR 450.21(d)(2)

This provision, as currently written would require permittees to ''Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater;''

EPA proposes to amend this requirement as follows:

Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

EPA is proposing to amend this requirement in order to acknowledge that there are certain circumstances where it may not be necessary or environmentally beneficial to minimize exposure of materials to precipitation and to stormwater. The first case would be those instances where a material is not a source of pollutant discharges. An example would be an inert material that does not leach, erode or otherwise add pollutants to precipitation or to stormwater. The second case would be where the material may contribute negligible quantities of pollutants. An example would be steel members that are part of an electric transmission tower. During construction of the tower, the material may be stored on the site in a staging area or adjacent to the tower pad. Although it may be feasible to provide cover for the material or otherwise minimize exposure of the material to precipitation and to stormwater, doing so may not be cost-effective or beneficial if the material would be expected to contribute little or no pollutants to stormwater. EPA believes that permitting authorities should have discretion and permittees

should have flexibility to address site-specific considerations with respect to this requirement. The proposed amendment should provide such flexibility. EPA solicits comment on these proposed changes.

8. Removal of Numeric Standard and Monitoring Provisions at 40 CFR 450.22(a) and 450.22(b)

The final proposed change would be to remove the numeric discharge standard and monitoring requirements found at 40 CFR 450.22(a) and 450.22(b). EPA would effectuate this change by deleting the current language at paragraphs (a) and (b), which are currently stayed, and reserving these paragraphs for potential revisions should EPA decide to propose additional effluent limitations guidelines and monitoring requirements in a future rulemaking. The stay has been in place since January 2011. In order to remove the stay or to implement a different numeric standard, EPA would need to undertake rulemaking. EPA is proposing to withdraw the numeric limitation but reserve the paragraphs in the regulation in the event that a numeric limitation is proposed and finalized in the future. EPA believes that removing the current standard that is stayed, but still appears in the Code of Federal Regulations, would provide clarity to permitting authorities that this standard is not required to be incorporated into permits. EPA continues to be interested in data and information regarding numeric discharge standards for construction sites.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). The action does not impose an information collection burden because the proposed rule changes would affect the effluent limitations and standards applicable to regulated entities, but would not impose any data collection requirements.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed 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 proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The proposed rule would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. We have therefore concluded that today's proposed rule will either not change or relieve regulatory burden for all affected small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This proposed rule would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. The proposed rule would not impose new or more stringent requirements, and therefore this action would not subject regulated entities to any costs incremental to the existing rule. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This proposed rule would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. These requirements apply to all governmental entities that undertake construction activities regulated at 40 CFR 122.26, and therefore do not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule would clarify applicability of the existing non-

numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. The proposed rule would not impose new or more stringent requirements, and therefore this action would not subject regulated entities to any costs incremental to the existing rule. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from tribal officials.

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 to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to EO 13045 because it is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this rule is not likely to have any adverse energy effects because this action would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. These clarifications or exemptions are not expected to require additional energy usage by permittees.

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.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order (EO) 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has concluded that it is not practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority and/or low income populations from this proposed rule. This proposed rule would clarify applicability of the existing non-numeric effluent limitations at 40 CFR part 450 and provide exemptions to some requirements in limited cases. While EPA considers it unlikely, it is possible that the changes to some of these requirements could result in greater pollution discharge to waters of the United States. However, EPA does not expect the quantity of pollution discharges to significantly increase as a result of this proposed rule at the national level. Furthermore, the primary pollutants discharged by this industry, which are sediment and turbidity, are present in background levels to varying quantities in waters of the United States. Therefore, the extent, if any, of changes in human health or environmental effects as a result of this action would depend upon waterbody-specific conditions and the locations and interaction of populations with those waterbodies. Due to the varying nature and location of construction site discharges, and due to the fact that there are often other sources of sediment and turbidity pollution in waterbodies, it is not practicable to quantify the extent to which this action would alter levels of pollution discharges or whether any change in pollution discharges as a result of this action would contribute disproportionately high and adverse human health or environmental effects on minority and/or low income populations.

List of Subjects in 40 CFR Part 450

Environmental protection, Construction industry, Land development, Water pollution control.

Dated: March 20, 2013.

Bob Perciasepe,

Acting Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 450—CONSTRUCTION AND DEVELOPMENT POINT SOURCE CATEGORY

■ 1. The authority citation for part 450 is revised to read as follows:

Authority: 33 U.S.C. 1311, 1312, 1314, 1316, 1341, 1342, 1361 and 1370.

Subpart A—General Provisions

■ 2. Section 450.11 is amended by adding paragraph (b) to read as follows:

§ 450.11 General definitions.

* * * * *

(b) *Infeasible.* Infeasible means not technologically possible, or not economically practicable and achievable in light of best industry practices.

Subpart B—Construction and Development Effluent Guidelines

■ 3. Section 450.21 is amended by:
■ a. Revising paragraphs (a)(1), (a)(2), (a)(6) and (a)(7).
■ b. Adding paragraph (a)(8).
■ c. Revising paragraph (b).
■ d. Revising paragraph (d)(2).

§ 450.21 Effluent limitations reflecting the best practicable technology currently available (BPT).

* * * * *

(a) * * *

(1) Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;

(2) Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion in the immediate vicinity of discharge points;

* * * * *

(6) Provide and maintain natural buffers around waters of the United States, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;

(7) Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

(8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where

the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

(b) *Soil Stabilization.* Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

* * * * *

(d) * * *

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and

* * * * *

§ 450.22 [Amended]

■ 4. Section 450.22 is amended by removing and reserving paragraphs (a) and (b).

[FR Doc. 2013–07097 Filed 3–29–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[EB Docket No. 08–51; DA 13–430]

Public Safety and Homeland Security Bureau Seeks To Refresh the Record Regarding Options for Addressing Non-Emergency Calls to 911 From Non-Service Initialized Handsets

AGENCY: Federal Communications Commission.

ACTION: Request for Comments.

SUMMARY: In this document, the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB) seeks to refresh the record regarding the nature and extent of fraudulent 911 calls made from Non-Service Initialized (NSI) devices; concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for carriers; and other possible solutions to the problem of fraudulent 911 calls from NSI devices.

DATES: Comments are due on or before May 16, 2013 and reply comments are due on or before May 31, 2013.

ADDRESSES: You may submit comments, identified by PS Docket No. 08–51 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Eric Ehrenreich, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–1726 or *Eric.Ehrenreich@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's Public Notice in PS Docket No. 08–51, DA 13–430, released on March 14, 2013. This document is available to the public at *http://www.fcc.gov/document/pshsb-seeks-refresh-non-emergency-911-calls-nsi-handset-record.*

Synopsis of the Public Notice

1. The Commission's rules require commercial mobile radio service (CMRS) providers subject to the Commission's 911 rules to forward all wireless 911 calls, including those originated from ''non-service-initialized'' (NSI) handsets, to Public Safety Answering Points (PSAPs). In 2008, nine public safety organizations and a software development firm (Petitioners) filed a petition for notice of inquiry to address the problem of fraudulent non-emergency 911 calls placed to PSAPs from NSI handsets. The Commission granted this petition and issued a *Notice of Inquiry* in April 2008 to enhance its understanding of the extent of the problem and to explore potential solutions. Specifically, the Commission requested comment in three areas: (1) The nature and extent of fraudulent 911 calls made from NSI devices; (2) concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for carriers; and (3) other possible solutions to the problem of fraudulent 911 calls from NSI devices.

2. In light of the concerns raised by Petitioners regarding fraudulent non-emergency 911 calls, one of the options on which the *Notice of Inquiry* (73 FR 28,116), sought comment was whether the Commission should eliminate the 911 call-forwarding requirement for NSI devices. In response, a number of public safety commenters advocated for the Commission to eliminate the requirement. However, other commenters, including Petitioners, other public safety entities, and commercial carriers, took the opposite view, arguing that the public had come to rely on the fact that NSI devices are 911-capable and that eliminating the call-forwarding requirement could lead to tragic results given this public reliance.

3. In a recently filed *ex parte,* however, NENA: The 9–1–1 Association (NENA), one of the original Petitioners, has revised its earlier-stated position on this issue. NENA states that based on its ''members' experience since 2008 * * * we now *can* support the reversal of the 'all calls' rule.'' According to NENA, ''PSAPs face an ever-growing onslaught

of non-emergency calls to 9–1–1 from NSI devices.'' Moreover, in recently filed comments in another docket, NENA states that there is now a ''consensus view that the promotion of NSI devices does more harm than good.'' NENA further asserts that ''most charities and domestic violence advocates [have] abandoned the practice of distributing NSI devices.'' NENA states that ''NSI phone donation programs have since been supplanted by outright donations of devices *and* service by CMRS providers, and by state and federal programs (such as the Universal Service Fund-supported Lifeline program) that provide free or reduced-cost mobile service to low-income or at-risk individuals.'' However, NENA does not support ''overnight'' elimination of the 911 call-forwarding requirement, proposing instead that the Commission should phase out the requirement ''for devices and networks that no longer support legacy circuit-switched calling.'' NENA clams that this would ''minimize stranded investments by carriers and consumers as carriers transition to fully IP-based architectures such as LTE and consumers transition to IP-only devices that no longer support circuit-switched voice services.''

4. In light of NENA's revised view on the 911 call-forwarding requirement, as well as the passage of time since the filing of comments in response to the *Notice of Inquiry,* we seek to refresh the record in this proceeding. In particular, we seek comment on whether other interested parties agree or disagree with NENA's view that the Commission should consider phasing out the call-forwarding requirement as it applies to NSI devices. More generally, we seek comment on relevant changes in industry, technology, regulation, public practice, or otherwise that may have occurred since the earlier filing of comments. We also ask commenters to point out any earlier-submitted facts or analyses in the record that they now regard as outdated, and to provide any new information that they consider relevant.

I. Procedural Matters

A. Ex Parte Presentations

5. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *through 1.1216.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

6. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Parties may file comments on or before the dates indicated on the first page of this document. Please place the docket number PS DOCKET NO. 08–51 on all filings. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

7. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

8. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

9. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

10. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

11. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

12. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

13. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (tty).

14. Copies of the Petition and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center: 445 12th Street SW., CY-Level, Washington, DC 20554, (202) 418–0270.

Federal Communications Commission.

David S. Turetsky,

Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2013–06814 Filed 3–29–13; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 78, No. 62

Monday, April 1, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Pawnee National Grassland, Colorado; Oil and Gas Leasing Analysis Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In November of 1997, the Arapaho and Roosevelt National Forest and Pawnee National Grassland Record of Decision (ROD) for the Revision of the Land and Resource Management Plan (LRMP), which included the Oil and Gas Leasing Analysis on the Pawnee National Grassland (PNG), was signed. That decision determined which Lands are administratively available for leasing [36 CFR 228.102(d)], including conditions (lease stipulations) under which lands will be available. The oil and gas decisions contained in the 1997 ROD were based on an April 1995 projection of the reasonably foreseeable oil and gas development for the Pawnee National Grassland. Much of the PNG's federal mineral estate made available per the 1997 ROD has already been leased.

Since the analysis was completed 16 years ago, there has been a change in the manner in which oil and gas development has occurred on the Pawnee National Grassland. Multiple wells can be drilled from a single well pad rather than just one, as was most common in the past. The improvements in horizontal drilling and hydraulic fracturing technologies to improve the ability to access and recover oil and gas located deep underground from horizons previously thought uneconomic are the primary reasons for these changes in development.

The remaining available lands that are not presently leased have been nominated for leasing by industry. Before the Forest Service provides the Bureau of Land Management with consent to offer these lands for lease, it must verify that the requested lands have been adequately addressed in a NEPA document and is consistent with the Forest Land and Resource Management Plan [36 CFR 228.102(e)]. Accordingly, the PNG finds it is necessary to disclose the potential effects of the changed pattern and level of oil and gas development from those effects considered in the 1997 FEIS, and determine whether or not there is a need to change LRMP standards and guidelines (and possibly leasing stipulations) to minimize the potential impact of oil and gas development on the Pawnee National Grassland, which may require a plan amendment.

DATES: Scoping is an early and open process for identifying the issues and determining the scope of issues to be addressed in the analysis. The Arapaho and Roosevelt National Forests and Pawnee National Grassland are soliciting comments on the proposed action. Comments should be written to help identify the issues that need to be addressed in the analysis. The public is welcome to comment at any time throughout the process; however, comments received prior to 05/14/2013 would be more useful and help keep the time line. The draft environmental impact statement is expected to be available to the public for comment in August, 2013 and the final environmental impact statement is expected in August 2014.

ADDRESSES: USDA Forest Service, Arapaho and Roosevelt National Forests and Pawnee National Grassland, 2150 Centre Avenue, Building E, Fort Collins, CO 80526.

FOR FURTHER INFORMATION CONTACT: Tom Ford, Interdisciplinary Team Leader, at 2150 Centre Avenue, Building E, Fort Collins, CO 80526, by email at *tford01@fs.fed.us* or by phone at 970–295–6610.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

In light of a changed pattern and level of oil and gas activity from what was anticipated in the 1997 ROD, there is a need to reevaluate our 1997 Oil and Gas Leasing Analysis that identified NFS lands available for federal oil and gas leasing on the PNG. The purpose of the analysis is to consider and disclose any new circumstances or information relevant to environmental effects that may not have been anticipated in the 1997 FEIS to determine if additional management direction and/or leasing stipulations are necessary to protect National Forest System lands. The need for this action is to allow the PNG to verify that specific lands nominated by industry for leasing are adequately addressed in a NEPA document before providing consent to the BLM to offer such lands at a lease sale.

Proposed Action

The PNG proposes to validate what lands are available for federal oil and gas leasing; what constraints are needed (lease stipulations) to minimize impacts to surface resources; and make any needed changes to management direction in the LRMP.

Responsible Official

Glenn Casamassa, Forest Supervisor of the Arapaho and Roosevelt National Forests and Pawnee National Grassland.

Nature of Decision To Be Made

Based on the analysis and information contained in the EIS, the Forest Supervisor will validate which lands will be available for lease, which lands will be adminstratively unavailable for lease, whether or not additional management direction would be incorporated into the Arapaho and Roosevelt National Forests and Pawnee National Grassland LRMP, and if that would require a plan amendment.

Dated: March 22, 2013.

Hal Gibbs,

Acting Forest Supervisor of the Arapaho and Roosevelt National Forests and the Pawnee National Grassland.

[FR Doc. 2013–07488 Filed 3–29–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Meeting of the Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board will hold a meeting on April 23, 2013. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App 2. The meeting agenda will focus on existing Environmental Education programs and improving engagement with regional school groups. The meeting is open to the public. Written commens are invited and should be sent to Bill Lorenz, Acting Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, KY 42211 and must be received by April 16, 2013 in order for copies to be provided to the members for this meeting. Board members will review written comments received, and at their request, oral clarification may be requested for a future meeting.

DATES: The meeting will be held Tuesday, April 23, 2013 from 9:00 a.m. to approximately 4:00 p.m. CST. Comments must be received, in writing, on or before May 31, 2013.

ADDRESSES: The meeting will be held at Paris Landing State Park, 16055 U.S. 79 Buchanan, TN 38222.

FOR FURTHER INFORMATION CONTACT: Linda L. Taylor, Advisory Board Liaison, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, KY 42211, 270–924–2002. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Board discussion is limited to Forest Service staff and Board members.

Dated: March 25, 2013.

William R. Lorenz,

Acting Area Supervisor, Land Between The Lakes.

[FR Doc. 2013–07502 Filed 3–29–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Manti-La Sal National Forest, USDA Forest Service.

ACTION: Notice of Proposed New Fee Sites.

SUMMARY: The Manti-La Sal National Forest is proposing to charge fees at four campsites. All sites will have been constructed and amenities added to improve the services and experience at the campgrounds. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. Funds from fees would be used for the continued operation and maintenance of these recreation sites.

Lake Canyon Recreation Area is a fee campground with 54 campsites. Depending on the terrain and location within the Lake Canyon Recreation Area, a number of campsites are clustered together in a loop and identified by a name. Three single campsites and one group site are being developed as part of a major restoration effort and proposed fee sites in the Miller Flat loop of Lake Canyon along with 44 less developed free sites. Fire rings, picnic tables, a cooking station, a kiosk, toilet, and roaded access and will be installed. A host is on site in the area. Lake Canyon Recreation Area is popular for ATV use. Major loops of campsites are connected by trails that connect with the Arapeen Trail system and nearby fisheries. Also located within this area are three learners' loops where children and adults can learn to ride their vehicle close to their campsite. The wide open area at Miller Flat has been an encouraging factor in the development of numerous unauthorized roads and camping. The restoration project has closed unauthorized trails and defined camping to an acceptable area. A financial analysis is being completed to assist in determining the fees, but the proposal is to keep the site fees consistent with other campsites in the Lake Canyon Recreation Area. The fee currently charged in Lake Canyon Recreation Area is being proposed at Miller Flat; $5 per vehicle per night for a single family campsite and $50 per night for a group site. All sites are proposed to be on the reservation system. If the group site is not reserved, first-come-first served campers may use the group site for $5 per vehicle per night. The additional campsites will greatly improve the resources, sanitation and recreation conditions. Fees would be used to continue to help protect and maintain the resources and campsites.

ADDRESSES: Allen Rowley, Acting Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

FOR FURTHER INFORMATION CONTACT: Ann King, Public Service Group Leader, 435–636–3535. Information about the proposed fees can also be found on the Manti-La Sal National Web site: *http://www.fs.fed.us/r4/mantilasal/.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. People wanting reserve these sites at Lake Canyon Recreation Area would need to do so through the National Recreation Reservation Service, at *www.recreation.gov* or by calling 1–877–444–6777 when it becomes available.

Dated: March 26, 2013.

Allen Rowley,

Manti-La Sal National Forest Acting Forest Supervisor.

[FR Doc. 2013–07448 Filed 3–29–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Socio-Economic Profile of Small-Scale Commercial Fisheries in the U.S. Caribbean.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 971.

Average Hours Per Response: 1 hour.

Burden Hours: 971.

Needs and Uses: This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect socio-economic data about small scale fishermen and seafood dealers operating in the U.S. Caribbean. The survey intends to collect information on demographics, fishing practices, costs and earnings (revenues, variable and fixed costs), market and distribution channels, capital investment, attitudes and perceptions about the performance management actions and the health of local fisheries, including the impact of invasive species. The data gathered will be used to describe U.S. Caribbean

fisheries, assess socio-economic performance of small-scale fleets, and evaluate the socio-economic impacts of federal regulatory actions. In addition, the information will be used to strengthen and improve fishery management decision-making, satisfy legal mandates under Executive Order 12866, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statues.

Affected Public: Business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: March 27, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–07449 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of a Virtual Public Meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a virtual meeting of the Census Scientific Advisory Committee (CSAC). The CSAC will provide scientific and technical expertise from the following disciplines: Statistical sciences, demography, economics, geography, psychology, survey methodology, social and behavioral sciences, information technology, and other fields of expertise, as appropriate. Last minute changes to the agenda are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: On Thursday, April 18, the virtual meeting will begin at approximately 1:00 p.m. Eastern Time and adjourn at approximately 5:30 p.m.

ADDRESSES: For members of the public wishing to attend the virtual meeting in person, a listening room will be available at the following location: U.S. Census Bureau, Conference Rooms 1–3, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Jeri Green, *Jeri.Green@census.gov,* Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2, Section 10), notice is hereby given to announce an open virtual meeting of the CSAC. The CSAC will meet in a virtual session on April 18, 2013. A virtual meeting of the CSAC provides a cost savings to the government while still offering a venue that allows for public participation and transparency, as required by the FACA.

This virtual meeting will take place by webinar and audio-video conferencing technology. All meeting participants, whether attending virtually or in person, should please register by April 10, 2013. The webinar will be limited to 200 participants. You may access the online registration form with the following link: *http://www.regonline.com/csacapr2013.* Web and audio instructions to participate in this meeting will be provided to all registered participants.

Members of the public are encouraged to attend the meeting virtually. For members of the public wishing to attend in person, a listening room will be made available. Please see the **ADDRESSES** section of this notice for the location of the listening room.

The agenda may be updated should priority items come before the Committee between the time of this publication and the scheduled date of the CSAC meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Committee Liaison Officer as soon as possible, preferably two weeks prior to the meeting. If attending in person, due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments via email to: *Jeri.Green@census.gov* (subject line ''Virtual CSAC Meeting''), or by letter submission to the Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233. Such submissions will be included in the record for the meeting if received by Wednesday, April 10, 2013.

Topics To Be Discussed

The primary purpose of the meeting is to provide the CSAC with an opportunity to discuss the following items:

- Executive Remarks.
- ACS Group Quarters Working Group.
- Optimizing Self-Response in the 2020 Census.
- Adaptive Design Case Study.

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on April 18. However, individuals with extensive questions or statements (exceeding two minutes) must submit them in writing to Ms. Jeri Green by April 10, 2013.

Dated: March 20, 2013.

Thomas L. Mesenbourg, Jr.,

Senior Advisor Performing the Duties of the Director, Bureau of the Census.

[FR Doc. 2013–07464 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC062

Marine Mammal Stock Assessment Reports

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

ACTION: Notice of availability; response to comments.

SUMMARY: As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). All but ten of the 2012 reports are final and available to the public.

ADDRESSES: Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: *http://www.nmfs.noaa.gov/pr/sars/.* You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115.

Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov;* Robyn Angliss, Alaska Fisheries Science Center, 206–526–4032, *Robyn.Angliss@noaa.gov;* Gordon Waring, Northeast Fisheries Science Center, 508–495–2311, *Gordon.Waring@noaa.gov;* or Jim Carretta, Southwest Fisheries Science Center, 858–546–7171, *Jim.Carretta@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare SARs for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal (PBR) level, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2012, and the revised reports were made available for public review and comment for 90 days (77 FR 47043, August 7, 2012). NMFS received comments on the draft SARs and has revised the reports as necessary. Subsequent to soliciting public comment on the draft 2012 SARs, NMFS revised the 2011 abundance estimates for ten Atlantic marine mammal stocks and the 2010 northeast sink gillnet serious injury and mortality estimates for several others. This new information prompted the agency to revise the SARs for the following marine mammal stocks: fin whale, western North Atlantic stock; sei whale, Nova Scotia stock; minke whale Canadian east coast stock; sperm whale, North Atlantic stock; Cuvier's beaked whale, western North Atlantic stock; Gervais' beaked whale, western North Atlantic stock; Sowerby's beaked whale, western North Atlantic stock; Risso's dolphin, western North Atlantic stock; Atlantic white-sided dolphin, western North Atlantic stock; and harbor porpoise, Gulf of Maine/Bay of Fundy stock. NMFS solicited public comment on the revised draft 2012 SARs for these ten stocks (78 FR 3399, January 16, 2013). The public comment period on the revised reports closes on April 16, 2013 and the reports will subsequently be finalized. This notice announces the availability of the final 2012 reports for the 114 stocks that are currently finalized. These reports are available on NMFS' Web site (see **ADDRESSES**).

Comments and Responses

NMFS received letters containing comments on the draft 2012 SARs from the Marine Mammal Commission (Commission), the U.S. Navy (Pacific Fleet), nine non-governmental organizations (The Humane Society of the United States, Center for Biological Diversity, Garden State Seafood Association, Maine Lobstermen's Association, Inc., Cape Cod Commercial Hook Fishermen's Association, Hawaii Longline Association, Alaska Seafood Cooperative, Pacific Seafood Processors Association, and Groundfish Forum), the Western Pacific Regional Fisheries Management Council, and one individual.

Many comments recommended initiation or repetition of large data collection efforts, such as abundance surveys, observer programs, or other efforts to estimate mortality. Many comments, including those from the Commission, recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in previous years. Although NMFS agrees that additional information would improve the SARs and inform conservation decisions, resources for surveys and observer programs are fully utilized, and no new large surveys or other programs may be initiated until additional resources are available. Such comments on the 2012 SARs, and responses to them, may not be included in the summary below because the responses have not changed. Comments on actions not related to the SARs (e.g., listing a marine mammal species under the Endangered Species Act (ESA)) are not included below. Comments suggesting editorial or minor clarifying changes were incorporated in the reports but are not included in the summary of comments and responses below.

In some cases, NMFS' responses state that comments would be considered or incorporated in future revisions of the SARs rather than being incorporated into the final 2012 SARs. These delays are due to the schedule of the review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to release for public review and comment. If a comment on the draft SAR suggests a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting.

Comments on National Issues

Comment 1: The Commission recommends that NMFS convene a workshop or series of workshops to explore novel ideas for detecting entanglements and ship strikes, improving information on their frequency and trends, reducing the bias in estimates of large whale mortality and serious injury caused by these interactions, and considering possible options for addressing these risk factors.

Response: NMFS recognizes and is attempting to address the concerns raised by the Commission through a variety of staff actions, discussed below. NMFS recognizes the threats to recovery of large whales posed by entanglements with fishing gear and collisions with ships and has implemented several regulations aimed at reducing these threats. The agency continues to conduct extensive research to quantify these threats and develop mitigation measures to reduce them. In 2010, NMFS convened a ship strike reduction workshop on reducing vessel strikes of large whales in California. In 2012,

NMFS staff served on the steering committee of an international workshop on maritime transport and biodiversity conservation, aimed at developing a plan to reduce the risk of whale ship strikes. NMFS staff are members of the International Whaling Commission's (IWC) Ship Strike Subcommittee and are involved in the planning of an upcoming IWC workshop on ship strike reduction. NOAA continues to work closely with the U.S. Coast Guard on developing routing measures to reduce the risk of ship strikes in United States waters. With respect to reducing fishing gear entanglements, NMFS continues to fund and conduct gear research aimed at reducing the risk of large whale entanglements and is developing new regulations to reduce the entanglement risk associated with vertical lines.

In 2012, NMFS finalized its procedure for determining serious injury for marine mammals, which includes quantitative methods for accounting for injury cases where the outcome cannot be determined, methods for accounting for successful post-interaction mitigation efforts, and injury determination processes specific to large cetaceans, small cetaceans and pinnipeds. This is expected to provide a more accurate estimate of total human-caused serious injury and mortality to marine mammals.

Comment 2: The Commission recommends that NMFS, in conjunction with the FWS, more completely assess human effects on marine mammals by (1) developing a framework for describing the full effects, both direct and indirect, of all human activities that may cause serious injury or mortality of marine mammals and then (2) incorporating that framework into stock assessment reports so that decision-makers are informed not only about the known information on a stock but also about the degree of uncertainty regarding the other risk factors that may be affecting the stock's status and what would be required to reduce that uncertainty.

Response: The SARs discuss the potential effects of human activities on marine mammals to an extent (e.g., effects of sonar), but NMFS acknowledges that this could be more thoroughly and consistently discussed in the reports and will strive to do so. The Guidelines for Assessing Marine Mammal Stocks (GAMMS III) workshop participants recommended to NMFS that SARs describe uncertainties in key factors such as human-caused mortality and serious injury and include a statement on whether existing data would be sufficient to detect a precipitous decline if one was occurring. The draft revised GAMMS include a characterization of uncertainty in the reports.

Comment 3: The Commission recommends that NMFS consider the feasibility and advisability of providing explicit technical guidance on trend analysis and, for each stock assessment with no trend analysis, require an explicit explanation for why such an analysis could not be completed.

Response: NMFS acknowledges that the SARS for many stocks currently do not have trend analyses and the reports often do not explicitly provide the reason for this absence. In such cases where trend analyses are not available, NMFS will include in the reports an explanation for why the analysis could not be completed. Two recent papers (Moore and Barlow 2011, and Moore and Barlow 2013) provide quantitative methods for marine mammal trend analysis, which NMFS intends to apply to other stocks where there is sufficient information to do so.

Comment 4: The Commission recommends that NMFS establish an internal review process to standardize the updating of the SARs within and across regions and consider using a copy editor to check for completeness, errors, and consistency.

Response: NMFS strives to produce reports that are complete and error-free and will continue to work to standardize the reports within and across regions.

Comments on Atlantic Regional Reports

Comment 5: The Commission recommends that NMFS expand Table 2 in the North Atlantic right whale report to include right whale #3903 as a serious injury and the unidentified dead right whale seen on 18 May 2006 as an entanglement-related mortality, and recalculate the five-year average of entanglement-related mortality and serious injury.

Response: Cause of death for the 18 May 2006 event is unknown. The last sentence from the Cassoff *et al.* (2011) paper on this event (*http://www.int-res.com/articles/feature/d096p175.pdf*) indicates that there is still too much doubt about cause of death to make a determination; therefore, #3903 was not included in the serious injury list. ''Although there was insufficient information to determine cause of death, entanglement was a probable factor, especially since there were no external injuries from a ship strike or predation, although blunt trauma with no external signs could not be ruled out.'' Because there is too much doubt to make a determination of cause of death for #3903, this right whale will not be added to the list of human-caused serious injury and mortality records.

Comment 6: The Commission recommends that NMFS expand the section of the North Atlantic right whale report on fishery-related mortality and serious injury to include the total number of entanglements between 2006 and 2012.

Response: The GAMMS call for the presentation of serious injury and mortality in 5-year data periods. We recognize the increased interest in this particular stock, but feel it is outside the scope of the SAR to present more than 5 years of serious injury and entanglement records. Total numbers of entanglement cases reviewed for the applicable 5-year period are presented in the Mortality and Serious Injury Determination reports (see *http://www.nefsc.noaa.gov/publications/crd/crd1211/* for the most recent reports). Only those cases that have been found to be confirmed human-caused serious injury and mortality are presented in Table 2 of the SAR.

Comment 7: The Commission recommends that NMFS expand the report for the Gulf of Maine harbor porpoise either to include a trend analysis and explanation or to describe the reasons that the analysis and explanation cannot be provided. If the latter, then the Service also should explain how it plans to rectify the problem(s).

Response: NMFS agrees that a trend analysis would be a useful addition to the harbor porpoise SAR as well as many of the other reports. We are working toward that goal with increased modeling efforts, but it may still be several years before trend analysis is available.

Comment 8: The Commission recommends that NMFS contact Canadian officials to (1) determine the feasibility of an analysis of port catch levels to estimate the number of harbor porpoises caught in the Canadian Bay of Fundy sink gillnet fishery since 2002, and (2) pursue the development of a reliable means for estimating harbor porpoise bycatch in the Canadian Bay of Fundy.

Response: NMFS agrees with these recommendations and has initiated communication with Canadian officials and hopes in the near future to improve upon the Canadian statistics provided in the SAR.

Comment 9: The MMC recommends that NMFS conduct the required surveys of the western North Atlantic harbor and gray seal stocks, incorporate the results into the stock assessment reports, and use that information in its

management of those stocks and the risk factors affecting them.

Response: NMFS agrees there is a pressing need for updated abundance estimates for harbor and gray seals in United States waters. Counting of digital aerial images from our 2012 Gulf of Maine harbor seal abundance survey, our seasonal southeastern Massachusetts and gray and harbor seal monitoring surveys, and our 2010–2012 gray seal pupping surveys is underway. The resulting data will be used to develop a new abundance estimate for harbor seals. The seasonal surveys will provide an index of harbor seal and gray seal numbers and information from the pupping surveys will be used to develop a gray seal population growth model. The modeling project, however, is dependent on funding.

Comment 10: The SAR fails to provide even the most basic stock information on the western Atlantic gray seal population and, instead, lists all its stock parameters as unknown. This complete lack of data is particularly disturbing considering the indisputable explosion in gray seal numbers that has occurred on Cape Cod in recent years.

Response: NMFS concurs that the gray seal population in New England waters has been increasing, particularly in the Cape Cod region. The Northeast Fisheries Science Center (NEFSC) has been monitoring the New England gray seal pupping colonies and conducting seasonal surveys of southeast Massachusetts haul-out sites since 2005. The NEFSC expects to complete the counting of the archived digital survey images by spring 2013. These data will provide an index of harbor seal and gray seal numbers, and can be used to develop a gray seal population growth model. The completion of the modeling project, however, is dependent on funding.

Comment 11: We are encouraged to see a continued increase in the minimum population estimate, now at 444 animals, for North Atlantic right whales. It would be informative if the SAR could include an estimate of the number of those whales not included in this estimate because they were not re-sighted since 2008.

Response: It would be outside the bounds and focus of the SAR to report the number of whales not used in the estimate. That is a random number subject to varying recapture rates and as such we disagree that it is an informative number.

Comment 12: The Draft 2012 humpback whale SAR attributes all serious injury and mortality observed in the southeast and mid-Atlantic region to the Gulf of Maine stock unless a whale is definitively identified to another stock. Photo-identification research conducted in 2002 determined that less than 50% of the (humpback whales photographed in the) southeastern and mid-Atlantic states were identified as Gulf of Maine stock and that it is likely that Canadian whales were under-represented. While this is somewhat outdated, it should be used to inform assumptions on the population identity of these whales rather than attributing 100% of serious injury and mortality to the Gulf of Maine stock as was done in the draft 2012 SAR. We urge use of a more representative pro-rated method for assigning mid-Atlantic serious injury and mortality to the Gulf of Maine stock.

Response: The current approach of assigning serious injuries and mortalities to the stock of humpback whales, when known, and assigning all unknown stock injuries and mortalities to the Gulf of Maine stock provides some measure of precaution with respect to the impact of serious injuries and mortalities on the Gulf of Maine stock. However, the tally of observed serious injuries and mortalities almost certainly underestimates the actual number, given that some fraction of serious injuries and mortalities are not observed. Therefore, the possible inclusion of non-Gulf of Maine whales is unlikely to exceed the true mortality of the Gulf of Maine stock.

Comment 13: The SARs attribute the annual North Atlantic right whale human-caused serious injury and mortality data for entanglements and ship strikes to either the United States or Canada. We do not believe that United States fisheries should be held responsible for serious injury or mortality that occurs in Canadian fisheries since those fisheries are not part of our management plan. Therefore, understanding where the human-caused serious injury or mortality takes place is extremely important in more accurately assessing progress against PBR.

Response: NMFS agrees that understanding the geographic source of fishery interactions is important for management needs. However, in many cases gear is recovered after having been on the animal for some time, and it is difficult to determine where the actual interaction/entanglement occurred geographically because the animal has likely moved since the original interaction. In cases where gear is recovered, the lack of a universal marking system hampers determination of gear source.

Comment 14: The North Atlantic right whale SAR acknowledges that the location where the animal was first sighted and the date of the sighting do not necessarily indicate where or when the serious injury or mortality occurred. Yet this exact information is used to assign the serious injury or mortality to either the United States or Canada. Additional information sources must be consulted in making these determinations such as the NMFS analysis of gear removed from whales, data from Center for Coastal Studies, and necropsy data.

Response: NMFS uses all reliable available information to try to determine if the location of the entanglement differs from the location of the initial observation.

Comment 15: The summary information presented in Table 1 shows the same figure for both Nmin and Nbest for both North Atlantic right and humpback whales. Since the minimum population estimate for right whales is based on a census of individual whales, a separate estimate of Nbest should be included for this species. Similarly, Nbest should be included for humpback whales.

Response: Stock assessment guidelines require only an Nmin for calculation of PBR. Nbest is not required but is often available when an abundance estimate is derived from a sampling process. For the census count, as is used for the North Atlantic right whale and humpback whale estimate, there is only a minimum number generated with no associated range. We have considered using line-transect or mark-recapture estimators to produce an Nmin, but these approaches are likely to lead to a less accurate estimate of Nmin than the current approach.

Comment 16: Appendix III includes a description of the Northeast/Mid-Atlantic American Lobster trap/pot fishery. The section on temporal and spatial distribution of the fishery states that ''fishing effort is intense and increasing throughout the range of the resource.'' This statement should be corrected to reflect that effort in the lobster fishery is not increasing throughout the range of the resource.

Response: NMFS concurs. This statement has been removed from the report.

Comment 17: Table 2 of the North Atlantic right whale SAR lists mortalities and serious injuries. We believe that an animal was omitted from the list of animals entangled in 2009 that appears to have been seriously injured as a result of entanglement: Right whale #1019 (Radiator) was seen and photographed entangled in July 2009 well south of Nantucket.

Response: The extent and configuration of the gear entanglement

of North Atlantic right whale #1019 is unknown. The fate of the animal is also unknown, so this interaction was not included in the list of serious injuries.

Comment 18: In the section on Annual Human-Caused Serious Injury and Mortality for North Atlantic right whales, NMFS makes an inaccurate (or at best misleading) statement regarding the number of entangled whales between 2006–2010. First, unless there are clear gear markings to indicate where the entangling gear was set, there is no way to be sure where an animal became entangled so attributing entanglements to United States (versus Canadian) gear is seldom possible. Second, there were more than ''8 entanglements'' during this 5-year time period. Third, even if NMFS erroneously wrote ''entanglement'' rather than ''fishery-related serious injury and mortality,'' this too would be incorrect, as Table 2 of the SAR lists 9 fishery-related serious injuries and entanglements, not eight. Fourth, each year there are a number of ''floaters'' for which cause of death is never established. As a result of these numerous problems with the new verbiage trying to estimate the number of animals either entangled or presumed dead pre- and post-take reduction plan, we suggest simply removing this new language regarding the number of entanglements.

Response: In response to attributing serious injuries and mortalities to nationality, we state in footnote 'a' of the serious injury and mortality table: ''The date sighted and location provided in the table are not necessarily when or where the serious injury or mortality occurred; rather, this information indicates when and where the whale was first reported beached, entangled, or injured.'' NMFS agrees that accurately attributing entanglements to United States (versus Canadian) gear is seldom possible.

The new verbiage added dividing the entanglement and ship strike cases into pre- and post-reduction plan/ship strike rule periods was suggested by the SRG at the February 2012 review meeting. NMFS has revised the sentence to read: ''Of the 8 reported fisheries entanglements from United States waters during this 5-year time period that were classified as serious injury or mortality, 5 were reported before the Atlantic Large Whale Take Reduction Plan's sinking-groundline rule went into effect in April 2009, and 3 were reported after enactment of the rule.'' The 8 from United States waters is correct. However, we did find an erroneous 8, which we have corrected to 9, in the fishery-related serious injury and mortality section, as that number refers to both United States and Canadian records.

Comment 19: We reiterate a perennial request for information with less than a 2-year time lag for North Atlantic right whales. Since the estimates of mortality are minimums and based solely on sightings and strandings of dead whales, there is no need for extra time in reporting to allow for extrapolation of effort as is the case with small cetacean bycatch. It would be useful to have up-do-date information.

Response: The abundance estimate for North Atlantic right whales is at most one year behind that for other stocks in the Atlantic and Gulf of Mexico SAR. The accounting process to obtain the minimum number alive requires two years of sightings to get a stable count, after which the data are analyzed and entered into the SAR in the third year. All animals are not seen every year; waiting two years assures that greater than 90% of the animals still alive will be included in the count.

Comment 20: We believe that there are humpback whales on the large whale disentanglement Web site last seen trailing significant amounts of gear that could qualify them as seriously injured based on criteria S6 of the NMFS guidelines (NMFS Instruction, 2012).

Response: The new NMFS Serious Injury Determination Policy will not be applied until the 2013 SAR. The 2012 SAR uses the previous guidelines for determination of serious injury.

Comment 21: For multiple stocks of Atlantic coastal bottlenose dolphin, the SARs were not updated, even though most are strategic stocks. There has been additional annual fishery-related mortality since the prior update in 2010 both in commercial fisheries and recreational fishing gear and additional strandings, some with signs of human interaction. New information on strandings and entanglements should have triggered an update in the SAR for any of these strategic stocks of bottlenose dolphins. We note that the Southeast region provided updates on at least the stranding and fishery-related mortality data for bottlenose stocks in the Gulf of Mexico, and the same should be done as well for all strategic stocks of bottlenose dolphins in the Atlantic.

Response: NMFS focused efforts for the 2012 SARS on stocks in the Gulf of Mexico due to the Deepwater Horizon oil spill (that began on 20 April 2010) and the unprecedented Northern Gulf of Mexico Unusual Mortality Event that began February 1, 2010 and was ongoing as of November 18, 2012. All Atlantic bottlenose dolphin SARs will be updated for 2013.

Comment 22: Although long-finned pilot whales are listed as a strategic stock in the NMFS SARs table and fishery-related mortality has been documented in pelagic fisheries, the SAR was not updated. Annual updates are required for strategic stocks, particularly in the face of new information on mortality. Further, though NMFS has separated SARs for long- and short-finned pilot whales in the Atlantic and provided PBRs for each, mortality estimates are still ''lumped,'' which makes it impossible to determine whether fishery-related mortality is disproportionately affecting one species more than the other. The agency should update fishery-related mortality for all strategic stocks on an annual basis and should prioritize efforts to assign mortality to either one of these species or the other.

Response: NMFS has been working towards splitting mortality estimates for pilot whale species in the Atlantic. Because abundance estimates are made during the summer but historically most fishery-related mortality takes place in the fall and early winter, the distribution of the two species during the times of greatest mortality has been poorly understood. NMFS conducted a ship-based survey in fall 2011 to help address this issue. Both pilot whale SARs will be updated in 2013 using the information from the fall 2011 survey, and mortality estimates will be split between the two pilot whale species.

Comment 23: In the SAR for the Northern Gulf of Mexico bay, sound and estuarine bottlenose dolphin stocks in Table 1, most have not been assessed for abundance for 20 years. Since they were last assessed, there have been several declarations of Unusual Mortality Events in their ranges, and the effects of the Deepwater Horizon spill reached into quite a number of these bays. We also note that the table listing the multiple stocks in this complex of bay, sound and estuarine dolphins contains stocks for which there are also separate stock assessments (e.g., the Barataria Bay and Choctawhatchee Bay stocks are among several in the list in Table 1 that also have their own SAR). Any stock that has its own SAR should be removed from the table in the SAR for bay, sound and estuarine bottlenose dolphins to avoid confusing readers.

Response: NMFS is working towards a method to prioritize the many Gulf of Mexico bay, sound and estuary stocks of bottlenose dolphins for assessment purposes. As most of these stocks are not amenable to standard aerial or ship-based abundance survey using line-

transect methods, NMFS first convened a workshop, partially funded by the Marine Mammal Commission, in 2010 to discuss and compile best practices for mark-recapture abundance estimation methods specifically aimed at bottlenose dolphins in estuarine habitats. With stocks prioritized and a robust method for abundance estimation in place, it will be possible to begin targeting specific stocks. In 2012 NMFS conducted necessary field work to start stock structure analyses for several estuarine stocks in Texas.

NMFS would like to retain the information for all the bottlenose dolphins in the multiple bay, sound and estuary stocks SAR but will note in Table 1 those stocks that have an individual SAR (e.g., Barataria Bay).

Comment 24: The Humane Society of the United States and Center for Biological Diversity commend the agency for providing more in depth information on effects from the Deepwater Horizon oil spill and subsequent declarations of Unusual Mortality Events.

Response: NMFS acknowledges this comment.

Comment 25: Given records of ongoing takes of bottlenose dolphins from several stocks in the menhaden fishery (including fisher self-reports, research-related takes and NMFS records from the 1990s), NMFS must prioritize added observer coverage of this fishery given the co-occurrence of the menhaden fishery with dolphins and the sporadic self-reports of lethal takes (which the agency acknowledges to be under-reports).

Response: NMFS agrees and, as such, implemented a pilot observer program for the Gulf of Mexico menhaden fishery during the 2011 fishing season. The goal of the pilot program was to characterize protected species bycatch, specifically sea turtles and bottlenose dolphins. During the pilot program we learned there are challenges associated with observing this fishery. For example, observing from the main ship (for safety reasons) provided limited visibility for protected species bycatch. In addition, the small number of participants triggers confidentiality requirements. We are evaluating the potential for additional observer coverage and/or methods for observing this fishery, provided resources become available. Meanwhile, we will continue monitoring fishermen self-reports and stranding data.

Comments on Pacific Regional Reports

Comment 26: The MMC recommends that NMFS first verify that compliance with the measures of the 1997 take reduction plan for sperm whales remains at a high level and monitor any changes in fishery effort that might systematically affect entanglement risk and then reconvene the take reduction team only if either of those efforts reveals deficiencies.

Response: NMFS analyzed data from this fishery recently, including compliance with acoustic pinger use and extender lengths (Carretta and Barlow 2011). Pinger use compliance was >99% in all observed sets dating back to 1998. A small fraction of sets (3.7%) experienced some pinger failure during this study, but the recent entanglement of two sperm whales occurred in a set where all pingers were functioning. The entanglement of sperm whales in this fishery is an extremely rare event (10 entanglements observed in 8,000 sets), and NMFS continues to investigate potential factors responsible for such events.

Comment 27: The MMC recommends that NMFS continue to plan and request funding for the necessary surveys to estimate abundance of Pacific Coast harbor seals but also consider alternative assessment approaches to update stock assessment reports for harbor seals along the Pacific coast.

Response: A survey of Washington Inland waters harbor seals is planned for 2014. There are currently no funds available for conducting surveys of harbor seals on the outer coasts and Washington and Oregon.

Comment 28: The MMC recommends that NMFS review all available information on stock structure for Pacific Island stocks of melon-headed whales, pantropical spotted dolphins, and rough-toothed dolphins and update the stock assessment reports accordingly.

Response: All Hawaii SARs will be updated with new stock structure, abundance, and mortality information in 2013. New science relating to the stock structure of melon-headed whales, spotted dolphins, and rough-toothed dolphins will be reviewed and new stock boundaries may be implemented as appropriate.

Comment 29: The Hawaiian monk seal is critically endangered, and the PBR should be zero—not undetermined. With a declining population trend and an already critically low abundance, the PBR should be zero. Hawaiian monk seals are critically endangered and are on a trajectory toward extinction. An ''undetermined'' PBR is misleading and can be misinterpreted.

Response: The GAMMS are clear on this issue: ''In unusual situations, the formula Congress added to the MMPA to calculate PBR (Nmin*0.5Rmax*Fr) results in a number that is not consistent with the narrative definition of PBR (the maximum number of animals, not including natural mortality, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP). An underlying assumption in the application of the PBR equation is that marine mammal stocks exhibit certain dynamics. Specifically, it is assumed that a depleted stock will naturally grow toward OSP and that some surplus growth may be removed while still allowing recovery. Such a situation arises when a stock is below its OSP and is declining or stable, yet human-caused mortality is not a major factor in the population's trend. Thus, for unknown reasons, the stock's dynamics do not conform to the underlying model for calculating PBR. For example, Hawaiian monk seals are endangered, declining, and below OSP (based upon the abundance prior to the 1970s), yet human-caused mortality is insufficient to account for the decline or a failure to increase. A limited removal would not reduce the population's ability to reach or maintain its OSP after the major factors affecting the stock have been identified and addressed. Therefore, in these unusual situations, NMFS may report PBR as undetermined.

Comment 30: The Hawaiian monk seal SAR should be updated to include the four seals slain within the past year in the Main Hawaiian Islands under suspicious circumstances, including some that may have been shot or bludgeoned. Additionally, the SAR should be updated to include the increased incidents of hooking.

Response: The 2012 SAR updates information through 2010 and contains the slain and hooked Hawaiian monk seal information through 2010 only. The draft 2013 SAR will report on more recent data.

Comment 31: Some of the areas of the Hawaiian monk seal SAR lag in reporting current information on threats. For example, ciguatoxins, potent algal neurotoxins that concentrate in fish preyed upon by monk seals, have been reported in Hawaiian monk seals, which could pose a significant threat to the seals (Bottein *et al.* 2011). There should also be updated information on Hawaiian monk seal diet, as well as more recent data on plastic entanglements and shark predation based upon information gathered by NMFS. There was also a problem in the past year with an aggressive monk seal killing other seals.

Response: The 2012 Hawaiian monk seal SAR updates information through 2010. This SAR was drafted in 2011 and thus only contains complete

information through the previous year, 2010. Regarding ciguatoxin, the Bottein *et al.* (2011) paper represents an advance in detection of these compounds. However, whether and to what degree they may influence monk seal mortality is not known, and the focus of stock assessments is on human-caused mortality. More recent information will be included in the 2013 draft SAR.

Comment 32: The draft long-beaked dolphin report notes that dolphins of this species have died as a result of past Navy training exercises. The new stock assessment report should provide more information on the impacts of sonar and other training exercises given the proposed continuation and/or expansion of those activities for the Southern California and Hawaii Training Ranges. Additionally, along California's coast, mortality of long-beaked dolphins has been documented due to domoic acid toxicity, a neurotoxin associated with algal blooms. Although domoic acid toxicity is mentioned in the SAR, it may be important to note that this risk is likely to increase. Studies suggest that the toxicity of these algal blooms will increase up to 5-fold due to ocean acidification (Tatters *et al.* 2012).

Response: While observed impacts to long-beaked common dolphin from Navy training exercises (such as those noted in the SAR) are relatively straightforward to quantify, undetected impacts of these activities are difficult to quantify. Currently only qualitative statements about the impacts of such activities are included in the SAR, as discussed by Danil and St. Leger (2011). Language related to potential increases in the toxicity of algal blooms responsible for domoic acid mortality events has been added to the SAR.

Comment 33: The southern resident killer whale population evaluation should be restricted to evaluating the more relevant population growth trends since 1987, to discount impacts from the aquarium trade removals in the 1960s. Looking at a more limited time period, the population is actually declining, not growing.

Response: Since the first complete census of this stock in 1974 when 71 animals were identified, the number of southern resident killer whales has fluctuated annually. There have been periods of increases and declines over this time, and there is no justification in choosing any particular starting year in determining if this stock is declining or growing. The population size as of the 2010/2011 census season was 87 animals. Text in this section of the SAR has been modified to reflect the variability in population size since the first census was conducted until present.

Comment 34: The southern resident killer whale SAR should also describe the threat to the killer whales from limited prey availability. The 2011 SAR notes that ''this population appears to be Chinook salmon specialists (Ford and Ellis 2006, Hanson *et al.* 2010), and there is some evidence that changes in coast-wide Chinook abundance has affected this population (Ford *et al.* 2009).'' NMFS' recent biological opinions confirm that evidence.

Response: The SAR currently contains language and references regarding potential effects of limited prey availability on this population of killer whales.

Comment 35: The new records of movements of the western stock of gray whales to the United States waters (Weller *et al.* 2012) suggests that the SAR should obtain more information and consider calculating PBR for this stock of whales as they are at risk of being caught by United States fisheries and would be at risk from a proposed Makah tribal hunt of gray whales.

Response: NMFS plans on preparing a separate stock assessment report for the western stock of gray whales in 2013.

Comment 36: At least two cases of apparent human-related injury do not appear to have been accounted in the gray whale SAR. Two gray whales with apparent trauma were examined by Cascadia Research in April 2009 and a gray whale that stranded in California in April 2009 had apparent propeller cuts along one side. This section should be checked to update mortalities.

Response: One of the two gray whales examined by Cascadia Research in April 2009 is already listed in the draft SAR. The April 27 record has the geographic attribution of Whidbey Island, although the animal was first seen floating off Camano Island. The carcass was towed to nearby Whidbey Island for necropsy. The second record was reviewed in the preparation of the draft SAR, and the source of the trauma was not definitively human-related. The California stranding from Sunset Beach is listed in the draft SAR (April 5, 2009 whale with apparent propeller cuts).

Comment 37: Though the region may have reviewed the stock assessments for the ESA-listed stocks (e.g., blue whales, humpback whales, etc.), there is no mention made of this. This assurance should be provided to reassure reviewers that the region was diligent in monitoring these stocks. New information on abundance or mortality triggers the requirement to revise the SAR for a strategic stock. The SARs for ESA-listed stocks should be updated annually in the face of annual mortality.

Response: Strategic stocks are reviewed annually, but revisions to the stock assessment may not necessarily be made unless new information on mortality would change the status of that stock. NMFS will add language to the preface of future Pacific region SARs that will inform reviewers and public commenters of this action each year.

Comment 38: NMFS should work to obtain more data on Hawaii spinner dolphin stocks. The military exercises planned in the range of spinner dolphins pose a threat to them and should be discussed here. The takes predicted in the Southern California and Hawaii Training Range for 2014–2019 are extremely large numbers.

Response: NMFS has added a statement of the potential impact of naval activities on spinner dolphins in Hawaii due to the proximity of naval training exercises for main Hawaiian Islands stocks. NMFS is working with its research partners to collect additional information on spinner dolphin stocks in Hawaii. Significant progress has been made in recent years with recognition of five distinct island-associated stocks within the main and Northwestern Hawaiian Islands and a sixth pelagic stock. As additional information becomes available on stock abundance and movements, it will be reflected in the SAR and considered as part of incidental harassment and other take authorizations. Such authorizations are analyzed through the NMFS permitting process.

Comment 39: While we commend the region for including literature as recent as 2012 to inform the false killer whale SAR, there is updated literature used in consideration of the proposed listing of the insular stock that is not considered in the SAR that may provide further insight into stock movements and boundaries (e.g., Chivers *et al* 2011). It also may be worth noting that there is currently no mechanism to address the excessive levels of fishery-related mortality. NMFS still has not published the take reduction plan for false killer whales and has indicated that portions of the plan recommended by the take reduction team will likely not be part of any final plan. As such, we are concerned that there will be continued depredation of stocks by fisheries.

Response: Chivers *et al.* 2011 and Baird *et al.* In press were added to the text and list of citations to better reflect the breadth of support for the separation of the Hawaii insular stock, now known as the Main Hawaiian Islands insular stock, from other false killer whale populations. The final take reduction

plan outlining regulatory and non-regulatory measures intended to reduce false killer whale bycatch in Hawaii's longline fisheries was published on November 29, 2012. Requirements such as longline area closures and measures to improve captain and crew response to hooked and entangled marine mammals went into effect on December 31, 2012, and gear requirements for the deep-set longline fishery take effect on February 27, 2013. Nearly all take reduction measures recommended by the take reduction team were implemented as part of the final plan (77 FR 71260, 29 November, 2012). The reference in the SAR has been updated to reflect the recent publication of the new fishery rules and summarize the implemented measures.

Comment 40: There appear to be at least two populations of melon-headed whales in the Hawaiian archipelago. There is a small population resident off the northwest region of the island of Hawaii and a larger population that ranges throughout the main Hawaiian Islands (Aschettino 2010). As melon-headed whales may be susceptible to impacts from navy training exercises, the presence of a small population with a restricted range in an area adjacent to where naval exercises may be undertaken should be noted. Aschettino (Id.) also notes evidence of fisheries interactions for both the Big Island resident population and the Main Hawaiian Islands population. This should be updated in the next SARs.

Response: All Hawaii SARs will be updated with new stock structure, abundance, and mortality information in 2013. New science relating to the stock structure of melon-headed whales, spotted dolphins, and rough-toothed dolphins will be reviewed, and new stock boundaries may be implemented as appropriate.

Comment 41: Hawaii spotted dolphins should be split into management stocks and managed to protect local populations that may be adversely impacted by commercial and recreational fisheries. Recent genetic analyses support the separation of pantropical spotted dolphins found in the Hawai'i, O'ahu, and 4-islands area regions into different populations (Courbis 2011). This should be updated in the next SARs.

Response: See response to comment 40.

Comment 42: There are new genetic studies indicating that there should be separate SARs for rough-toothed dolphins. There is high site fidelity and small populations of these dolphins that appear to warrant separate management approaches (Baird *et al.* 2008, Albertson 2011, poster). This should be updated in the next SARs.

Response: See response to comment 40.

Comment 43: The Western Pacific Regional Fishery Management Council finds inconsistencies in NMFS' interpretation of population trend data for different stocks of false killer whales. The Council agrees that changes in survey methodology and oceanographic conditions preclude using the 2002 and 2010 abundance estimates as a direct measure of population trend for the pelagic stock of false killer whales. However, we find that NMFS has not consistently applied the above reasoning in evaluating the insular stock population trend. The Council therefore requests that NMFS apply consistent scientific reasoning in inferring population trends for the insular and pelagic stocks of false killer whales.

Response: Considerably more data are available to evaluate trends of main Hawaiian Islands insular false killer whales than are available for the pelagic stock. Only two abundance estimates are available for the pelagic stock, each with overlapping coefficients of variation (CV), and it is not possible to assess whether this stock may be increasing, decreasing, or stable. In contrast, data on insular stock trends include aerial survey data from the 1980s, 1990s and early 2000s, and recent estimates of abundance from small vessel surveys resulting in identification of a large portion of the population. These data together allow for a robust assessment of population trend for the insular stock. Uncertainties in the trend assessment were tested in sensitivity trials in Oleson *et al.* (2010), with the outcome of all plausible models indicating a declining population.

Comment 44: The Western Pacific Regional Fishery Management Council finds the declining population trend attributed to the insular stock to be inconsistent with observed data since 2000. The draft 2012 SAR cites the Status Review of Hawaiian insular false killer whales to show that the current decline of the insular stock is occurring at an average rate of 9% since 1989. The SAR also reports that the population estimate for the insular stock based on a photographic mark-recapture study during 2000–2004 was 123 animals. Applying the 9% annual decline to the 123 insular false killer whales in 2000, the population in 2012 would be estimated at approximately 40 animals. Alternatively, starting with 123 animals in 2004 would result in approximately 58 animals in 2012. However, the current best estimate of the insular false killer whales according to the draft 2012 SAR is 151 animals, significantly higher than would be expected based on the quantified population trend. This simple exercise highlights possible inaccuracies in NMFS' assumptions regarding the insular stock population trend. The Council therefore requests that NMFS reanalyze the insular stock population trend based on the best available information.

Response: NMFS thanks the Council for pointing out an omission in the draft 2012 SAR. The 2000–2004 estimate used in the Population Viability Analysis (PVA) presented in the Hawaiian insular false killer whale Status Review was 162 (CV=0.23) animals, rather than the older estimate of 123 (CV=0.72) animals listed in the SAR. The updated abundance estimate for the 2000–2004 period has now been included within the SAR. All estimates are described in detail in Oleson *et al.* (2010). However, the exercise conducted by the Council does not correctly consider the time period of the two estimates (from 2000–2004 to 2006–2009) and does not incorporate uncertainty in the estimates of population abundance and trend. Also, it does not provide an accurate evaluation of the trend analyses conducted as part of the Status Review. NMFS is required to use many factors in calculating the abundance trend, as carefully described in Oleson *et al.* (2010)—we attempt to summarize those factors here. The PVA used all available data, including minimum counts, encounter rates, and abundance estimates, as well as estimates of environmental stochasticity, the impact of Allee effects, and catastrophic events. The Status Review explicitly acknowledged the relatively small change in population size from the 2000–2004 estimate of 162 individuals and the 2006–2009 estimate of either 151 or 170 individuals, suggesting that a two-stage model may also be appropriate. Most iterations of the PVA were parameterized with the higher 2006–2009 abundance of 170 individuals that is now considered an overestimate, as animals seen near Kauai now known to associate with the Northwest Hawaiian Islands (NWHI) stock were included in that estimate. Thus, the second rate of change could be seen as overly optimistic, as it attempted to incorporate the higher 2006–2009 abundance. The impact of using the lower 2006–2009 estimate on the risk of extinction can be seen in Appendix 2 (model 9) of Oleson *et al.* (2010).

Comment 45: Based on the new abundance estimate and all other

available evidence, the Western Pacific Regional Fishery Management Council believes that the Hawaii longline fishery has had significantly less impact on the false killer whale population than has been implied over the last decade. According to NMFS, incidental take of false killer whales in the Hawaii deep-set longline fishery has exceeded PBR since 2000 when a SAR for Hawaii false killer whales was first produced. Given that take exceeding PBR in the long-term is considered unsustainable, the false killer whale population interacting with the longline fishery would be expected to show a decline. However, available data do not suggest that the pelagic stock has experienced a decline, and a stable or increasing trend is much more likely for the pelagic stock than a declining trend. This calls into question the assumptions used in marine mammal stock assessments, the calculation of PBR, and evaluation of fishery impacts on marine mammal populations. Given the lack of evidence indicating a population decline of the pelagic stock of false killer whales, NMFS should consider setting the recovery factor higher than 0.5.

Response: NMFs concurs with the Council's comment on the 2012 draft SARs that acknowledges that environmental variability and lack of information on the entire range of the pelagic false killer whale stock precludes any trend analysis for this stock. In this comment, the Council is implying that such trend analyses may be appropriate. At this time, inadequate data exist to assess trends in abundance for this stock, and it is inappropriate to assume the fishery has had no effect when surveys covered only a fraction of the range of the population, without any information on the dependence of the distribution of this stock on environmental conditions. The population remains at unknown status such that use of a recovery factor equal to 0.5 is appropriate and warranted.

Comment 46: The draft 2012 SAR for the Hawaiian Islands stock complex of spinner dolphins description under the human-caused mortality and serious injury section in nearly all Hawaii dolphin SARs is irrelevant and represents an inaccurate interpretation of the cited study. Furthermore, NMFS observer data from the Main Hawaiian Islands bottomfish fishery between 2003 and 2005 indicate that there has been no observed incidental take of cetaceans in this fishery. The Council believes the observer program data represent the best available information on human-caused mortality and serious injury for the bottomfish fishery and requests that NMFS include these as a measure of interactions in the fishery rather than using the target catch damage rates currently used in the SARs.

Response: The information on interaction rates from the 1995 study will continue to be included as it represents the best available historical data for the bottomfish fishery. NMFS appreciates the Council's reference to more recent data from the Observer Program from 2003 to 2005, a short period when the NWHI fishery was observed at 18–25% coverage. This information is now included in the SAR. The Main Hawaiian Islands bottomfish fishery has never been observed.

Comment 47: The draft 2012 SAR for Hawaiian monk seals includes descriptions of recent intentional killings in the Main Hawaiian Islands, followed by the claim that ''more seals are likely intentionally killed than are reported or discovered.'' However, no scientific justification or reference is provided to support this claim, and it appears to be speculative. NMFS should avoid such speculation and use the best available scientific information in the SARs as required under Section 117(a) of the MMPA.

Response: The intentional killing of monk seals in the Main Hawaiian Islands is well-documented, although it is extremely unlikely that all carcasses of seals killed intentionally are discovered and reported. Studies of the recovery rates of carcasses of marine mammal species have shown that the probability of detecting and documenting all deaths (whether from human or natural causes) is quite low (Peltier *et al.* 2012; Williams *et al.* 2011; Perrin *et al.* 2010; Punt and Wade 2010). Text to address this uncertainty has been incorporated in the SAR.

Comment 48: The SARs annually contain descriptions of United States commercial fisheries in Appendix I. No revisions were proposed in the draft 2012 SAR for the Pacific Ocean. However, upon review of the fishery descriptions in the Final 2011 SARs, the Council notes that descriptions for Hawaii Category III fisheries (Hawaii gillnet, lobster trap, inshore handline, deep sea bottomfish handline & jig, and tuna handline and jig fisheries) are outdated and require revisions. Necessary revisions include, but are not limited to, the following: (1) Number of active permit holders and total effort for the Hawaii Category III fisheries have not been updated since 2000; (2) there are currently no lobster and bottomfish fisheries in the NWHI due to the establishment of the Papahanaumokuakea Marine National Monument that prohibited unpermitted removal of monument resources; (3) the Main Hawaiian Islands bottomfish fishery in federal waters is managed under the Fishery Ecosystem Plan for the Hawaiian Archipelago and operates under an annual catch limit. The fishery is co-managed with the State of Hawaii, which has adopted complementary measures in state waters.

Response: NMFS will update all fishery descriptions in the 2013 SARs and will consult with local Council staff regarding whether other updates may be warranted.

Comment 49: The Hawaii Longline Association appreciates that NMFS has updated the abundance estimate for the Hawaii pelagic false killer whale stock (''Pelagic Stock'') based on the best available scientific information. However, certain aspects of the Draft SAR's characterization of the 2010 Hawaii EEZ survey data are inaccurate and, accordingly, we propose language that accurately reflects the available information. The Draft SAR is not consistent with the best available scientific information in two additional respects: (i) the Draft SAR's statement that no population trend data are available for the Pelagic Stock and (ii) the use of a 0.5 recovery factor value in the calculation of the Pelagic Stock's potential biological removal.

Response: The Hawaii Longline Association proposed revisions to the text in the Hawaii pelagic false killer whale stock SAR regarding the possibility of positive bias in sightings as a result of vessel attraction; this language has been incorporated with a few changes. Including additional bootstrap variance on the various parameters in the 2010 estimate would not inform this issue (other than showing that most of the variance comes from the encounter rate) and would seem to be superfluous information for a SAR. It remains that the bootstrap CV on the density (and abundance) estimates resulted in an estimate with confidence intervals that overlap with those of the 2002 estimate. That alone negates our ability to make a trend estimate as infinite scenarios (including a decline) are possible (lognormal 95% CIs for the two estimates are 484 (103–2274) and 1,503 (462–4884)). The population remains at unknown status, such that use of a recovery factor equal to 0.5, given the CV on the mortality and serious injury estimate, is appropriate and warranted.

Comment 50: The certainty with which NMFS has confirmed a new, separate false killer whale stock in the NWHI stock is not scientifically justified. This decision was made on a very limited data set and the agency's

rush to judgment about the separateness of this new ''stock'' appears to reflect an aversion to attributing new sightings of hundreds of whales to already established stocks, not the best available information.

Response: NMFS disagrees that the designation of new stocks is not scientifically justified. The separation of the NWHI stock and the Hawaii insular and pelagic stocks is sound and based on multiple lines of evidence including genetic analyses indicating significant differentiation in both mtDNA and nucDNA, photo-ID indicating separation from the tight social network of the Main Hawaiian Islands animals, and satellite telemetry data suggesting island and atoll association within the NWHI. The data on false killer whale stock structure, including the new NWHI stock, have been evaluated both for demographic independence, the benchmark for separation under the MMPA, and for evolutionary separation, the more stringent standard for separation under the ESA.

Comment 51: NMFS's serious injury determinations regarding the deep-set fishery's interactions with the Pelagic Stock are not accurate. NMFS's contention that the deep-set fishery has caused serious injuries in excess of PBR for a period of years cannot be reconciled with the best available evidence, which shows that false killer whale populations in the Hawaii EEZ have increased, or at a minimum remained stable, during the same time that the deep-set fishery has supposedly caused serious injuries at an unsustainable rate. NMFS should implement changes in the process through which serious injuries are determined.

Response: At this time, the available data do not provide sufficient information to statistically determine trends in abundance, particularly since only a portion of the range of this stock has been surveyed. It is therefore incorrect to conclude the population is stable or increasing. The MMPA clearly states that a stock for which mortality and serious injury exceeds the PBR is strategic, and false killer whales have consistently met this definition since the first SAR for Hawaiian false killer whales in 2000.

The process by which injuries are determined to be serious or not serious has been developed and peer-reviewed over many years by experts in marine mammal biology and health, and is based on the best available science (see Andersen *et al.* 2008; NOAA 2012a; NOAA 2012b). Prorating is done in accordance with NMFS guidelines using appropriate statistical techniques, and has been peer-reviewed by the Pacific SRG and other qualified scientists.

Comment 52: Several of the draft SAR's conclusions regarding the Hawaii insular false killer whale stock (the ''Insular Stock'') are not correct. Specifically, the best available scientific information does not (i) suggest that the Insular Stock has declined in abundance or (ii) support the allocation of a deep-set fishery interaction to the Insular Stock. In addition, the use of a 0.1 recovery factor is inappropriate until, if, and when the Insular Stock is listed as an endangered species.

Response: This stock was listed as endangered under the ESA as of December 28, 2012 (77 FR 70915). The name of this stock has been changed to the ''Main Hawaiian Islands insular stock'' throughout the SAR to reflect the name given during the ESA listing. Prior to listing, NMFS conducted an ESA status review of Hawaii insular false killer whales (Oleson *et al.* 2010) that represents the best available scientific information on the status of this stock. The PVA conducted by the Biological Review Team (BRT) indicates with high certainty that the population has declined. No new information is available since the 2010 Status Review that negates the findings of the BRT. The BRT concluded that Hawaiian insular false killer whales are at high risk of extinction as a result of either small scale incremental impacts over time or a single catastrophic event. The combination of a decline in abundance, a high risk of extinction, and a small population size warranted a recovery factor of 0.1 for this stock prior to their listing, which was supported by the Pacific SRG.

The partial allocation of a single 2006 take within the Main Hawaiian Islands insular-pelagic overlap zone is supported by the best available data on the range of the insular and pelagic stocks. The reference to the NMFS statement that there are ''no documented serious injuries or mortalities of [Insular Stock] animals incidental to Hawaii's longline fisheries'' (75 FR 2853, 19 January, 2010) does not include the entire sentence from the **Federal Register** notice, which clearly states that the provided information comes from the 2008 and 2009 SARs, prior to reevaluation of the insular stock boundary and the implementation of the insular-pelagic overlap zone.

Comment 53: The US Navy would request for the final long-beaked common dolphin SAR deletion of the sentence as unwarranted: ''Exposure to blast trauma resulting from underwater detonations is a habitat concern for this stock and the cumulative impacts of these detonations at the population level is unknown (Danil and St. Leger 2011)'', and deletion of the blast trauma statement ''* * * and mortality resulting from blast trauma (0.8 animals per year for the 5-yr period 2007 to 2011).''

Response: Danil and St. Leger (2011) state that the population-level impacts of such blast-trauma events require careful consideration. This acknowledges that while this was the first such event documented by the Navy in this region, not all blast trauma events are necessarily detected. NMFS supports the mitigation measures that the Navy implemented following this event and acknowledges that such measures will reduce the probability of future events. NMFS acknowledges that this type of activity represents a local threat to dolphins in the testing area, unlike habitat threats that could have much larger spatial and quantitative impacts. Language in the SAR has been changed from ''habitat concern'' to ''local concern.''

Calculation of an average annual mortality based on various human-caused sources is required under Section 117 of the MMPA, which states that NMFS must ''estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey.'' The use of a 5-year average annual mortality for past human-caused mortality and serious injury is standard in stock assessment reports and is used for all sources of human-caused mortality. The language in the SAR is not intended to imply that future blast trauma events will occur every year at a level of 0.8 animals per year but rather is an annual average of the most recent past 5-year period over which human-caused mortality is evaluated from each source. Conversely, an absence of detected blast trauma events in a given year does not constitute ''evidence of absence'' of these events.

Comment 54: I would like to suggest that the CA–OR–WA minke whale stock extends north into British Columbia, Southeast Alaska, Prince William Sound and along the Gulf of Alaska coast to about Unimak Pass in the Aleutian Islands. I base this assertion on the similar spatial distribution patterns in these northern regions to that in the CA–OR–WA stock. My suggestions would be a CA–OR–WA–BC–AK stock, although I know that BC waters are not under the purview of NMFS.

Response: While the distribution of minke whales may be concentrated in shelf waters within the large area described, there are no data that support the lumping of CA–OR–WA stock minke whales with animals from Canada and Alaska. In the absence of such evidence, the GAMMS recommend defining management units at a smaller spatial scale to avoid local depletion, particularly as the source and magnitude of anthropogenic impacts may vary regionally.

Comments on Alaska Regional Reports

Comment 55: The Commission recommends that NMFS meet with the Commission to discuss the impending changes in the Arctic and consider the development of (a) a long-term assessment strategy to characterize population abundance, stock status, and ecological and human interactions as climate disruption continues and (b) a long-term management strategy that anticipates the risks to ice seals and develops pro-active measures to avoid or minimize those risks.

Response: NMFS appreciates the Marine Mammal Commission's interest and would welcome the opportunity to discuss these and other issues of mutual concern.

Comment 56: The Commission recommends that NMFS continue its efforts to (1) collaborate with the Alaska Native community to monitor the abundance and distribution of ice seals and (2) use seals taken in the subsistence harvest to obtain data on demography, ecology, life history, behavior, health status, and other pertinent topics; among other things, subsistence harvests provide opportunities to collect valuable data on ice seal populations in many parts of their ranges while minimizing the logistical requirements and costs.

Response: NMFS continues to work with Alaska Native partners to obtain data on ice seal stocks, including information on abundance and distribution, demography, ecology, life history, subsistence harvest, and other data pertinent to assessing the status of these stocks.

Comment 57: The Commission recommends that NMFS revise its stock assessments for the north Kodiak, south Kodiak, and Cook Inlet harbor seal stocks by (1) Reducing the recovery factor to be consistent with the Service's 2005 guidelines, (2) recalculating their PBR values, (3) updating the stock assessment reports accordingly, including changing the status of the north Kodiak stock, and (4) working with Native communities to ensure that harvest numbers, when combined with other human-related serious injuries and deaths, do not exceed the PBR for the north Kodiak stock.

Response: The GAMMS state that, ''stocks that are not known to be decreasing, taken primarily by aboriginal subsistence hunters, could have higher Fr values, up to and including 1.0, provided that there have not been recent increases in the levels of takes.'' In the case of these 3 stocks, the trend is unknown, there are no additional indications the stocks are decreasing, they are taken primarily by aboriginal subsistence hunters, and there is no apparent increase in the level of takes. NMFS is currently developing new methods for analysis of abundance and trend for each of the stocks. Results from this new analysis will inform future decisions regarding the determination of recovery factor. Additionally, the assignment of subsistence harvest and fisheries mortalities to a particular stock is imprecise, because the stocks are mixed during most of the year, when harbor seals are not tied to their breeding locations. As noted in response to other comments, NMFS continues to work with Alaska Native partners to obtain subsistence harvest data.

Comment 58: The Commission recommends that NMFS conduct the research needed to (1) analyze and describe the risks to North Pacific right whales associated with increasing shipping traffic in the Bering Sea and North Pacific, paying particular attention to Unimak Pass, and of entanglement in fishing gear and (2) use that information to design management measures that will minimize the risk of ship strikes and entanglement, and that it ensure its activities do not significantly increase the risk faced by the whales.

Response: NMFS is also concerned about the North Pacific right whale population. With a current estimate of 31 animals in the eastern population, the population is critically endangered. At the present time, there is no evidence that entanglement in fishing gear is a major problem for this population; photographs of right whales in the National Marine Mammal Laboratory catalogue show no entanglement scars. In addition, the Alaska Fisheries Science Center is working with the Marine Conservation Alliance, a fishing industry group, to examine the overlap of fixed gear with right whales in the Bering Sea, and will produce a report on this analysis in the coming year. With regard to shipping, it will be difficult to reliably quantify the risk of ship strikes to right whales in Unimak Pass or elsewhere because we have very little information on seasonal right whale distribution. NMFS is considering the emerging issue of increased shipping in the Arctic with various management bodies and stakeholders, and is working toward a coordinated, proactive approach to this topic. In addition, the research needs identified by the Commission are part of the recently published draft Recovery Plan for North Pacific right whales (78 FR 4835, January 23, 2013).

Comment 59: The Commission recommends that NMFS make every effort to expedite the analysis of all passive acoustic, satellite telemetry, and other data available for North Pacific right whales, update the stock assessment report accordingly, and use those data to develop protective measures for this population.

Response: NMFS has already conducted and published results of some of this work, including papers on a low-latitude match and an aerial acoustics technique together with new data on the past illegal Soviet catches (the primary reason for the eastern population's critically endangered status). Other papers summarizing the distribution, acoustic research, and satellite tagging data are in preparation. NMFS is currently seeking funding for a study clarifying whether the northern limit of the right whale's range in the Bering Sea extends to and above the Bering Strait.

Comment 60: The Commission recommends that NMFS revise the stock assessment report for the North Pacific right whale stock to indicate that based on knowledge of migratory patterns of similar species, Hawaii and Mexico could be low latitude habitats used more regularly by North Pacific right whales than currently recognized.

Response: As noted by Brownell *et al.* (2001) and Clapham *et al.* (2004), there is very little evidence from historical whaling and sighting data, or from archaeology, that either Hawai'i or Baja California were ever a significant habitat for right whales. There has been no new information since those publications that would significantly alter that conclusion.

Comment 61: There is an acknowledgement in the Steller seal lion (Western stock) SAR that there is a marked difference in trends of abundance for this stock depending on the specific trend site. Yet the gains in some portions of the range have been assumed to compensate for the losses in other portions of the range with a PBR calculated for the entire stock from the western Aleutians to the eastern Gulf of Alaska. This seems inappropriately risk prone. The region should consider

managing Steller sea lions on a finer scale to more appropriately illustrate the need for conservative management in portions of the species' range where declines are ongoing.

Response: The Alaska Regional Office has been considering options for more fine-scale management of Steller sea lions for some time (with areas such as those in the Recovery Plan). For example, we considered fine-scale population trends in the 2010 Biological Opinion on the effects of the Alaska groundfish fisheries on the Western distinct population segment (DPS), and we are examining trends in portions of the Eastern DPS as we consider possible delisting. NMFS Alaska Regional Office will continue to investigate this approach.

Comment 62: Steller sea lions (Western stock) is one of several stocks for which there is an acknowledgement that fisheries known to interact with the stock are not being monitored by observers and may not have been monitored in over a decade. In this case, the SAR states that ''observer data on state fisheries dates as far back as 1990; however, these are the best data available to estimate takes in these fisheries. No observers have been assigned to several fisheries that are known to interact with this stock.'' This must be remedied to provide a better understanding of fishery-related impacts, particularly in areas where there are ongoing declines.

Response: NMFS has previously responded to this comment (see 77 FR 29969, May 21, 2012, comment 62) as follows: ''NMFS is working with fishing industry and Alaska state partners on implementing adaptive sampling in the federal observer program that covers fisheries managed by the State of Alaska. The adaptive sampling methods are designed to increase data collection efficiency. NMFS has recently directed funds to observer effort in nearshore drift gillnet fisheries in southeast Alaska.''

Comment 63: This Steller sea lions (Western stock) SAR is one of many SARs for pinnipeds in Alaska stating that ''[a]s of 2009, data on community subsistence harvests are no longer being collected. Therefore the most recent 5-years of data (2004–2008) will be retained and used for estimating annual mortality * * *'' This is a deplorable approach to management of a stock that is declining in inhabited portions of its range and/or where hunting of this endangered species may be ongoing. NMFS must correct this data deficit as soon as possible.

Response: NMFS agrees that it is important to understand the magnitude of Steller sea lion subsistence harvest. A successful marine mammal harvest monitoring program cannot be developed exclusively in the federal domain and must be supported by Alaska Native hunters and communities. In December 2010 and March 2011 NMFS partnered with the Indigenous People's Council on Marine Mammals to convene two workshops of marine mammal hunters and Alaska Native Organization (ANO) representatives to begin to develop a statewide program for monitoring subsistence hunting and harvests. NMFS continues to work with our ANO partners on harvest monitoring programs within the annual ANO co-management funding program.

Comment 64: The need for better accounting of mortality is particularly poignant for Steller sea lions (Western stock) because there is every reason to believe that human-related mortality exceeds the PBR. The section on ''status of the stock'' states that the current levels of anthropogenic mortality and serious injury are below the PBR simply because anthropogenic mortality is at a level a few dozen animals less than the PBR. This does not account for the fact that (as acknowledged in the SAR) fishery-related mortality data are absent; and, thus, the estimate of fishery impacts is likely an under-estimate. Nor does it take into consideration the complete lack of effort to collect data on native subsistence take. Thus the statement that the average annual mortality of 231.8 is below the PBR of 275 is overly optimistic and likely inaccurate.

Response: Previous responses (75 FR 12498, March 16, 2010, Comment 19; 76 FR 34054, June 10, 2011, Comment 11) have addressed comments pertaining to the need for current and accurate estimates of subsistence takes for pinnipeds in Alaska, including the western stock of Steller sea lions. Observer coverage in the Federal groundfish fisheries remains relatively high, and serious injury and mortality (SI/M) estimates from these fisheries are estimated based on observed SI/M. The best available data are used to estimate SI/M for Alaska state fisheries and included in the total SI/M estimate.

Comment 65: We believe NMFS should consider whether the ongoing declines of Northern fur seals warrant listing this stock as threatened under the Endangered Species Act. Fur seals were listed as depleted in 1988, as a consequence of a decline to less than 50 percent of its population of the 1950's. See: 53 FR 17888 (May18, 1988). Since that time, just in the past 20 years, the stock has once again lost approximately 50 percent of its abundance (i.e., estimated at 182,437 in 1992 and 93,627 in 2010).

Response: The Eastern Pacific stock of northern fur seals is composed of breeding aggregations on St. Paul Island, St. George Island, and Bogoslof Island. NMFS concurs with the commenter in the estimated percent reduction in abundance; however, the actual abundance is about 4.5 times higher than presented for St. Paul Island alone. The commenter is incorrect in the description of the estimated abundance of the stock of northern fur seals as 93,627; in fact that is the estimate of pups born on St. Paul Island in 2010. The estimated population abundance is 611,617 for the eastern Pacific Stock. While NMFS is concerned about the statistically significant decline in pup production on the Pribilof Islands, we do not believe the entire stock is threatened with extinction. The protections afforded northern fur seals under the MMPA are adequate to implement management measures to promote increases in overall stock abundance. NMFS has invested significantly in a vital rates study by tagging annual cohorts and adult female northern fur seals over the past three years. The continuation of this study to mark and re-sight individuals will allow NMFS to estimate survival and reproductive rates on St. Paul and St. George and determine where management measures will be most effective towards stock recovery. The results of this work will not be realized until a series of annual cohorts have been re-sighted and individual cohort survival and reproductive rates can be estimated.

Comment 66: Lake Iliamna seals should be separated and recognized as a separate stock (reasons detailed in comment letter). Whether the Iliamna Lake seal is a stock of harbor seal or if the Iliamna Lake seal is a stock of spotted seal, or a separate species of *Phoca,* extirpation of the Iliamna Lake seal would result in a gap in the range of harbor seal or spotted seal.

Response: NMFS and co-management partners in the Alaska Native community designated 12 stocks of harbor seals based on local knowledge, as well as historical and recent data. NMFS is in the process of evaluating the evidence for discreteness of the harbor seals in Lake Iliamna, including their genetic relatedness to other harbor seals and seasonal variation in numbers of seals in the lake. NMFS recently received a petition to list Iliamna harbor seals as threatened or endangered under the ESA. If NMFS determines that the petition presents substantial

information indicating that listing may be warranted, NMFS will undertake a status review, which would include a thorough evaluation of whether these seals constitute a population that is eligible for listing.

Comment 67: The table showing abundance and trends in harbor seals shows some management stocks with declining trends and others stabilized. Neither the text nor Table 9a, that provides minimum abundance estimates for each of the management stocks, provide CVs for the estimates of abundance. If available, these should be provided to elucidate the appropriateness of the recovery factor that was provided. Using the same recovery factor (0.5) in calculating PBR for all of the management stocks, whether stable or declining and with no CV provided for the estimates, seems risk prone.

Response: Table 9a in the SAR provides Nmin estimates for each of the 12 harbor seal stocks. CVs for the estimates of abundance have been added to the final SAR.

Comment 68: NMFS should determine a PBR for beluga whales based on a conservative estimate as proposed in the revisions of the stock assessment guidelines.

Response: The revised GAMMS III have not been finalized; therefore, the PBR calculation is based upon the current guidelines (GAMMS II).

Comment 69: The Cook Inlet beluga population is not increasing, and we agree that setting a PBR allowing take of the species is inappropriate. The PBR should be set at zero to avoid a misconception that an undetermined PBR places no limit on take. Further, there are continuing proposals for oil and gas exploration and port expansion in their habitat. While NMFS continues to assert that there is no significant impact from each of these proposed projects, many of them subject these belugas to harmful sound levels and ensonification of their habitat (e.g., NMFS, 2012). NMFS must prioritize necropsy of any dead belugas found in Cook Inlet. We believe that the continued insult to their habitat has been given short shrift in the discussion of habitat impact and recent litigation has asserted that NMFS has not properly considered and mitigated impacts.

Response: Similar to Hawaiian monk seals (see response to comment #29) and as stated in the SAR, the Cook Inlet beluga stock does not meet the assumptions inherent to the use of PBR. NMFS has decided it would not be appropriate to calculate a maximum number that may be removed while allowing the population to achieve OSP; therefore, PBR for Cook Inlet beluga whales is undetermined. NMFS has previously responded to similar comments pertaining to Cook Inlet beluga habitat (75 FR 12498, March 16, 2010, Comment 1 and 6), and specifically to the ''habitat concerns'' section of the Cook Inlet beluga SAR (76 FR 34054, June 10, 2011, Comment 22).

Comment 70: NMFS must update abundance estimates for harbor porpoises that are over 8 years old, many of which are even 15 years old. To the extent that these data are currently unavailable, NMFS should apply the new GAMMS strategy for determining PBR when data is old. These abundance data need to be collected for better management.

Response: The revised guidelines for assessing marine mammal stocks (GAMMS III) have not been finalized; therefore, the PBR calculation is based upon the current guidelines (GAMMS II).

Comment 71: The Dall's porpoise SAR should be updated with more current population estimates. Rather than undetermined PBR for stocks with data more than 8 years old, the worst-case scenario should be assumed for establishing PBR as proposed in the draft GAMMS III.

Response: NMFS is in the process of analyzing abundance and trends of Dall's porpoise in Southeast Alaska; however, these data are currently not available and include only a portion of the range for this stock. Once this analysis is complete, NMFS will update the Dall's porpoise SAR with new information.

Comment 72: NMFS should obtain a reliable estimate of the sperm whale population size and set a PBR.

Response: NMFS agrees that an abundance estimate, trend, and PBR are needed for sperm whales in Alaska and will continue to seek resources for necessary surveys (77 FR 29969, June 10, 2011, Comment 71).

Comment 73: The humpback whale SAR Appendix 8 only provides information on mortality through 2007 despite the fact that more updated information is available in individual SARs. This appendix should be updated through 2010.

Response: NMFS is currently working on a technical memorandum summarizing all Alaska marine mammal injury assessments for 2007–2011, including humpback whales, using guidance provided in the Marine Mammal Serious Injury Policy and Procedural Directives that became effective 27 January 2012. These data will be available in the Tech Memo in 2013 and will no longer be included as an Appendix in the SAR.

Comment 74: NMFS should update the SARs for the ice seals—spotted, bearded, ringed and ribbon seals. The ice seals should be classified as strategic, and accordingly their SARs should be updated every year. Additionally, given the limited understanding of stock abundance and trends and the lack of CVs surrounding abundance estimates, the formula provided for calculating PBRs for all of these seals errs in utilizing an inappropriate recovery factor of 0.5. A more precautionary recovery factor should be used for these stocks following the most recent final GAMMS that suggest lower recovery factors for stocks with greater uncertainty in estimates of abundance (NMFS, 2005). We are particularly alarmed that several SARs for ice seals contain language acknowledging that ''[a]s of 2009, data on community subsistence harvests are no longer being collected…'' This warrants an explanation. Why are anthropogenic impacts not being tracked on a timely basis for these intentional harvests? This is particularly important for these stocks for which no abundance or trend information is available and that depend on habitat that the SARs acknowledge to be degraded.

Response: NMFS agrees that information on subsistence harvest is necessary for ice-associated seals. A successful marine mammal harvest monitoring program cannot be developed exclusively in the federal domain and must be supported by Alaska Native hunters and communities. In December 2010 and March 2011, NMFS partnered with the Indigenous People's Council on Marine Mammals to convene two workshops of marine mammal hunters and ANO representatives to begin to develop a statewide program for monitoring subsistence hunting and harvests. NMFS continues to work with our ANO partners by prioritizing harvest monitoring programs within the annual ANO co-management funding program. Even so, the subsistence harvest of ice-associated seals in Alaska appears to be sustainable, and the significant concerns about the future status of ice seals stem from climate change and associated habitat loss, not subsistence harvest.

Comment 75: The draft 2012 reports on Steller sea lions do not reflect the most current or accurate information regarding total population and trend for the United States Western DPS or the entire Western DPS. For example, the draft SAR does not provide any population trend for the total

population of the U.S. Western DPS Steller sea lion stock in its entirety. The total population of the U.S. Western DPS has increased to 52,209 in 2011, an increase of 41% from 2000. The best estimate for Steller sea lions in Russia is 25,000 to 28,000 animals. Therefore the best estimate of the entire Western DPS population in 2011 would be 77,000–80,000 (with 52,000 in the U.S. Western DPS and 25,000–28,000 in Russia). From 2000 to 2011, the total population estimate for the entire Western DPS has increased 54% to 60%. The SAR should provide the best total estimate of the total population for the entire U.S Western DPS stock and the entire Western DPS. The disclaimer concerning the pup multiplier and the reference to Holmes 2007 should be deleted as Holmes 2007 (and the hypothesized reduced natality in Central gulf of Alaska and extension to the entire Western DPS) does not represent the best available or current science.

Response: NMFS agrees with the estimate of 52,000 for the U.S. Western DPS Steller sea lion population in 2011, and agrees that the best current estimate (i.e., 2011) for Steller sea lion abundance in Russia is between 25,000 and 28,000, and that the total western DPS population is between 77,000 and 80,000. However, NMFS does not agree with how the commenter calculated the percent change in the western DPS population between estimates derived in 2000 and 2011. NMFS' estimate of percent change based on pup counts at western DPS rookeries that were surveyed in both years in the United States (N=31) indicates a 17% increase between 2001–02 (8,639 pups) and 2011 (10,139 pups). These two pup counts are not estimates of the total pup production in these years but sums of counts at the 31 largest rookeries; in 2011, the 31 largest rookeries had the vast majority (87%=10,139/11,600) of all pups born in the western DPS in the United States. NMFS does not have a similar estimate of total pup production for 2001–02 since aerial surveys were not used to count pups then; and, consequently, several major haul-outs and some smaller rookeries that have been consistently surveyed during aerial surveys since 2005 were not counted during the 2001–02 surveys. Estimates of change in abundance of non-pups in the western DPS in the United States between 2000 and 2011 are based on counts at two groups of trend sites. The 1990s trend sites (N=161) had a total of 23,836 non-pups in 2000 and 27,168 in 2008, an increase of 14%; the 2000s trend sites (N=232) had 25,251 non-pups in 2000 and 30,147 in 2008, an increase of 19%. Consequently, estimates for the change in western Steller sea lion abundance in the United States between 2000 and 2011 range between 14% and 19%, less than half the 41% cited by the commenter.

While the western Steller sea lion SAR provides information about abundance in Russia, only information about the portion of the stock residing in United States waters is used to estimate Nmin and to calculate PBR. The GAMMS instructs that for stocks that span international boundaries, the PBR for United States fisheries is calculated based on the abundance estimate of the stock residing in United States waters.

Comment 76: The minimum population for the Western DPS of Steller sea lions should be revised upward as it excludes known counts. Exclusion of these additional counts ignores the best available scientific information.

Response: In order for Steller sea lion non-pup counts (from aerial photographs) to represent a consistent index of the total non-pup population from year to year, only animals on land are counted. During the breeding season, only a small fraction of non-pups are at sea; non-pups spend most of their time on land. Animals in the water are counted only when it is known they were disturbed from the land to the water during the survey. In those circumstances, every effort is made to only count those animals that entered the water and are still relatively close to shore. Surveys are designed to occur during the season and time of day when non-pups are most likely to be hauled out on land, which maximizes the opportunity of obtaining a consistent index count of non-pups each year.

Comment 77: The Western DPS of Steller sea lion SAR should be revised to include the population trend for the total U.S. Western DPS and the entire Western DPS. The current draft only contains estimates for fragmented sections of the population in sub-areas (and sections of sub-areas as in the Central Aleutian Islands), but the SAR inexplicably provides no overall trend for the total population for the U.S. Western DPS and Western DPS. If sub-area trends for non-pups are to be included, the SAR should be more explicit as to how non-pup trends to 2011 are being derived—when the 2011 non-pup survey only covered 75% of the non-pup survey sites.

Response: NMFS is currently working on estimating trends for the entire U.S. Western DPS of Steller sea lions through 2012, as well as for each of the sub-areas. These results will be included in the 2013 SAR.

Comment 78: The draft Western DPS of Steller sea lion SAR should be revised to include the most recent total population estimate for the Russian population (25,000–28,000).

Response: The most recent estimate for the Russian population of Steller sea lion (25,000 to 28,000) referenced by the commenter is based on a presentation at the Alaska Marine Science Symposium in January 2012. These data became available after the draft 2012 SAR was prepared, and the SRG has not reviewed them in the context of the SAR. NMFS intends to update the draft 2013 SAR with this information once it has undergone expert review.

Comment 79: The draft Western DPS of Steller sea lion SAR should consider revising the recovery factor from 0.1 to 0.3 as the U.S. Western DPS stock is steadily increasing with known human take (subsistence and fishery interactions). The U.S. Western DPS has increased +41% from 2000 to 2011 and is 98% of the downlisting population threshold. Revision of the recovery factor for an increasing population is consistent with the GAMMS.

Response: The GAMMS instruct that the default recovery factor for stocks of endangered species should be 0.1. Changes to recovery factors for listed stocks can be made after careful consideration and SRG review. However, given that the current annual level of incidental U. S. Commercial fishery-related mortality exceeds 10% of the PBR and cannot be considered insignificant and approaching a zero mortality and serious injury rate, combined with the relatively high CVs for commercial fishery mortality estimates, it is prudent that NMFS be conservative in managing this endangered stock. Therefore, NMFS will not increase the recovery factor at this time.

Comment 80: The Western DPS of Steller sea lion SAR should be revised to accurately describe the extent (range and magnitude) of movement of Western DPS and Eastern DPS SSLs, both males and females. The reference to ''a few migrants'' (p. 2) should be deleted. The reference to Phillips 2011 does not support this assertion. A more thorough evaluation of the effects of observed movement by males and females on stock structure should be conducted.

Response: Phillips *et al.* (2011) is a phylogeographic study of Steller sea lions and is not cited in reference to movements between the western and eastern stocks of Steller sea lions in the SARs. There are documented

movements of a few individuals between the geographic division of the eastern and western stocks; however, these cases are minimal and are not significant enough to affect stock structure. Demographics of these migrant individuals is being examined further, and the SAR will be reviewed and updated as appropriate in the draft 2013 SARs.

Comment 81: Given the Center for Independent Experts (CIE) review and Independent Scientific Review Panel findings and conclusions, the 2012 Western DPS of Steller sea lion SAR should not include the scientifically flawed information or constructs that were found to have little scientific basis in the 2010 Biological Opinion. Our detailed comments are provided in Attachment 1 to this letter.

Response: The CIE review was conducted in August 2012, after the draft 2012 Western DPS of Steller sea lion SAR was released for public comment. NMFS will consider incorporating any significant findings and new information resulting from the CIE review in the draft 2013 SARs.

Dated: March 25, 2013.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–07553 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC566

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the King & Spanish Mackerel Advisory Panel (AP) and Snapper Grouper AP in North Charleston, SC.

DATES: The meetings will be held from 9 a.m. on Monday, April 22, 2013 until 12 p.m. on Thursday, April 25, 2013.

ADDRESSES: The meetings will be held at the Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; telephone: (800) 445–8667 or (843) 308–9330; fax: (843) 308–9331.

Council Address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion in the individual meeting agendas are as follows:

King & Spanish Mackerel AP Agenda: Monday, April 22, 2013, 9 a.m. Until Tuesday, April 23, 2013, 12 p.m.

1. Discuss and provide recommendations for Mackerel Amendment 19, which addresses bag limit sales of king and Spanish mackerel, reduces inactive king mackerel permits, and addresses income requirements for commercial king and Spanish mackerel permits.

2. Discuss and provide recommendations for Mackerel Amendment 20, which pertains to: changes in Gulf group zones; transit provisions in Florida waters; and allocations for king and Spanish mackerel in North Carolina. The amendment also addresses framework procedure modifications as well as updated Annual Catch Limits (ACLs) for cobia.

3. Discuss and provide recommendations for South Atlantic Framework Actions, which considers: a change in the king mackerel minimum size limit; modifications to transfer-at-sea provisions for the Spanish mackerel gillnet fishery; changes in the king mackerel commercial trip limits; and modifications to the Spanish mackerel quota and trip limit system.

Snapper Grouper AP Agenda: Tuesday, April 23, 2013, 1:30 p.m. Until Thursday, April 25, 2013, 12 p.m.

1. Receive an update on the April, 2013 Scientific and Statistical Committee (SSC) Meeting, including: the application of the Only Reliable Catch Stocks (ORCS) methodology to specify Acceptable Biological Catches (ABCs) for unassessed snapper grouper species included in the Comprehensive ACL Amendment; and the black sea bass stock assessment.

2. Receive an update on both future and completed snapper grouper amendments.

3. Receive presentations on: Vessel Monitoring Systems (VMS); an electronic monitoring (EM) pilot study on snapper grouper bandit vessels; and the Fishery Independent Reef Fish Survey.

4. Receive an overview of Snapper Grouper Amendment 30, pertaining to the consideration of VMS for the commercial snapper grouper fishery. Discuss the amendment and provide recommendations.

5. Receive an overview on Regulatory Amendment 14, which addresses management measures for the following snapper grouper species: greater amberjack; mutton snapper; gray triggerfish; hogfish; black sea bass; vermilion snapper; and gag grouper. Discuss the amendment and provide recommendations.

6. Receive overviews on: regional allocations for black sea bass; and Visioning and Strategic Planning for the snapper grouper complex. Discuss the overviews and provide recommendations.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: March 27, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–07501 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Federal Advisory Committee; Public Meeting

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a meeting via web conference call of the Marine Protected Areas Federal Advisory Committee (Committee). The web conference calls are open to the public, and participants can dial in to the calls. Participants who choose to use the web conferencing feature in addition to the audio will be able to view the presentations as they are being given. Members of the public wishing to listen in should contact Lauren Wenzel at the email or telephone number below for the call-in number and passcode.

DATES: The meeting will be held Wednesday, May 1, from 1:00 to 3:30 p.m. EDT. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held via web conference call.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Acting Designated Federal Officer, MPA FAC, National Marine Protected Areas Center, 1305 East West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–7265, Fax: 301–713–3110); email: *lauren.wenzel@noaa.gov*; or visit the National MPA Center Web site at *http://www.mpa.gov*).

SUPPLEMENTARY INFORMATION: The Committee, composed of external, knowledgeable representatives of stakeholder groups, was established by the Department of Commerce (DOC) to provide advice to the Secretaries of Commerce and the Interior on implementation of Section 4 of Executive Order 13158, on marine protected areas.

Matters to be Considered: The focus of the Committee's meeting is reporting on the Subcommittee workplans and their implementation (Jobs, Recreation and Tourism Subcommittee and Stakeholder Engagement Subcommittee) to address the Committee's charge. The Committee will also hear updates from the National Oceanic and Atmospheric Administration and the Department of the Interior. The agenda is subject to change. The latest version will be posted at *http://www.mpa.gov.*

Dated: March 20, 2013.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–07274 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Meetings To Develop Consumer Data Privacy Code of Conduct Concerning Mobile Application Transparency

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Open Meetings.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene meetings of a privacy multistakeholder process concerning mobile application transparency. This Notice announces the meetings to be held in April, May, and June 2013.

DATES: The meetings will be held on April 30, 2013; May 23, 2013; and June 11, 2013 from 1:00 p.m. to 5:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meetings will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: John Verdi, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–8238; email *jverdi@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: On February 23, 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the ''Privacy Blueprint'').[1] The Privacy Blueprint directs NTIA to convene multistakeholder processes to develop legally enforceable codes of conduct that specify how the Consumer Privacy Bill of Rights applies in specific business contexts.[2] On June 15, 2012, NTIA announced that the goal of the first multistakeholder process is to develop a code of conduct to provide transparency in how companies providing applications and interactive services for mobile devices handle personal data.[3] On July 12, 2012, NTIA convened the first meeting of the first privacy multistakeholder process, followed by additional meetings through March 2013.

Matters to Be Considered: The April 30, 2013; May 23, 2013; and June 11, 2013, meetings are a continuation of a series of NTIA-convened multistakeholder discussions concerning mobile application transparency. Stakeholders will engage in an open, transparent, consensus-driven process to develop a code of conduct regarding mobile application transparency. The April 30, 2013; May 23, 2013; and June 11, 2013, meetings will build on stakeholders' previous work. More information about stakeholders' work is available at: *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency.*

Time and Date: NTIA will convene meetings of the privacy multistakeholder process on April 30, 2013; May 23, 2013; and June 11, 2013 from 1:00 p.m. to 5:00 p.m., Eastern Time. The meeting times are subject to change. The meetings are subject to cancellation if stakeholders complete their work developing a code of conduct. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Place: The meetings will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006. The location of the meetings is subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Other Information: The meetings are open to the public and the press. The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. The meetings will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. There will be an opportunity for stakeholders viewing the webcast to

[1] The Privacy Blueprint is available at *http://www.whitehouse.gov/sites/default/files/privacy-final.pdf.*

[2] *Id.*

[3] NTIA, *First Privacy Multistakeholder Meeting: July 12, 2012, http://www.ntia.doc.gov/other-publication/2012/first-privacy-multistakeholder-meeting-july-12-2012.*

participate remotely in the meetings through a moderated conference bridge, including polling functionality. Access details for the meetings are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Dated: March 26, 2013.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–07426 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records currently listed under ''COMMERCE/PAT–TM–11 Patent Examiner Testimony Files.'' This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than May 1, 2013. The amendments will become effective as proposed on May 1, 2013, unless the USPTO receives comments that would result in a contrary determination.

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

- *Email: Monica.Lateef@uspto.gov.* Include ''Privacy Act PAT–TM–11 comment'' in the subject line of the message.
- *Fax:* (571) 273–0373, marked to the attention of Monica Lateef.
- *Mail:* Monica Lateef, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

All comments received will be available for public inspection at the Federal rulemaking portal located at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Monica Lateef, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–3000.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information related to testimony that may be given by current and former USPTO employees in accordance with 37 CFR part 104, 15 CFR part 15, and the Manual of Patent Examining Procedure (MPEP) Chapter 1700. The Privacy Act notice is being updated with the current address information for the system location and system manager. The description of the routine uses of records maintained in the system has been updated to include use in law enforcement, audits and oversight activities, and distribution to contractors, all uses commonly published in other agency system of records notices. The rule references for the notification procedure and contesting record procedures have been updated to correspond to the current statutes and rules for those items as related to the USPTO.

The amended Privacy Act system of records notice, ''COMMERCE/PAT–TM–11 Patent Examiner Testimony Files,'' is published in its entirety below.

COMMERCE/PAT–TM–11

SYSTEM NAME:

Patent Examiner Testimony Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Solicitor, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees who have testified in person or through deposition in court actions, in accordance with 37 CFR part 104, 15 CFR part 15, and the Manual of Patent Examining Procedure (MPEP) Chapter 1700, while employed by the USPTO, or who have been interviewed to determine whether such testimony will be taken.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, employment status, education, work experience, and other matters which might be raised in the course of a deposition or other testimony.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 1 and 6; 5 U.S.C. 301.

PURPOSE(S):

To maintain records related to current and former USPTO employees who may provide testimony, in accordance with 37 CFR part 104, 15 CFR part 15, and the Manual of Patent Examining Procedure (MPEP) Chapter 1700, while employed by the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Routine uses will include disclosure for law enforcement purposes to the appropriate agency or other authority, whether federal, state, local, foreign, international or tribal, charged with the responsibility of enforcing, investigating, or prosecuting a violation of any law, rule, regulation, or order in any case in which there is an indication of a violation or potential violation of law (civil, criminal, or regulatory in nature).

(2) Routine uses will include disclosure to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(3) Routine uses will include disclosure to contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the USPTO, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to the USPTO employees.

(4) Routine uses will also include the Prefatory Statement of General Routine Uses Nos.1–5 and 9–13, as found at 46 FR 63501–63502 (December 31, 1981).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible to authorized personnel who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the series records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Solicitor, Mail Stop 8, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

NOTIFICATION PROCEDURE:

Information about the records contained in this system may be obtained by sending a request in writing, signed, to the system manager at the address above or to the address provided in 37 CFR part 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought (including date(s) of testimony or interview, if known) in accordance with the procedures for making inquiries appearing in 37 CFR part 102 subpart B.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The general provisions for access, contesting contents, and appealing initial determinations by the individual concerned appear in 37 CFR part 102 subpart B. Requests from individuals should be addressed as stated in the notification section above.

RECORD SOURCE CATEGORIES:

Subject individual, the individual's co-workers, and those authorized by the individual to furnish information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: March 26, 2013.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2013–07390 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records currently listed under ''COMMERCE/PAT–TM–13 Petitioners for License to File for Foreign Patents.'' This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than May 1, 2013. The amendments will become effective as proposed on May 1, 2013, unless the USPTO receives comments that would result in a contrary determination.

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

- *Email: Raul.Tamayo@uspto.gov.* Include ''Privacy Act PAT–TM–13 comment'' in the subject line of the message.
- *Fax:* (571) 273–7728, marked to the attention of Raul Tamayo.
- *Mail:* Raul Tamayo, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

All comments received will be available for public inspection at the Federal rulemaking portal located at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Raul Tamayo, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–7728.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on patent applicants and their authorized representatives who request a license to file a patent application in a foreign country. The Privacy Act notice is being updated with the current address and departmental information for the system location and system manager. The routine uses of records maintained in the system have been updated to include use in law enforcement, audits and oversight activities, and distribution to contractors, all uses commonly published in other agency system of records notices. The descriptions of storage, retrievability, and safeguards have been revised to reflect current database practices. The rule references for the notification procedure and contesting record procedures have been updated to correspond to the current statutes and rules for those items as related to the USPTO.

The amended Privacy Act system of records notice, ''COMMERCE/PAT–TM–13 Petitioners for License to File for Foreign Patents,'' is published in its entirety below.

COMMERCE/PAT–TM–13

SYSTEM NAME:

Petitioners for License to File for Foreign Patents.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Patent Examining Operation, Technology Center 3600, United States Patent and Trademark Office, 501 Dulany Street, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Petitioners for license to file a patent application in any foreign country.

CATEGORIES OF RECORDS IN THE SYSTEM:

Petitioner's name, address, and description of subject matter, or, where a corresponding U.S. application has been filed, identification of applicant, application serial number, filing date, title to invention, applicant's address and addresses of applicant's duly appointed representatives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 1, 6, and 184.

PURPOSE(S):

To carry out the duties of the USPTO to grant and issue patents, including the requirements for authorizing the filing of a patent application in a foreign country under 35 U.S.C. 184.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Routine uses will include disclosure for law enforcement purposes to the appropriate agency or other authority, whether federal, state, local, foreign, international or tribal, charged with the responsibility of enforcing, investigating, or prosecuting a violation of any law, rule, regulation, or order in any case in which there is an indication of a violation or potential violation of law (civil, criminal, or regulatory in nature).

(2) Routine uses will include disclosure to an agency, organization, or individual for the purpose of performing audit or oversight operations as

authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(3) Routine uses will include disclosure to contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the United States Patent and Trademark Office, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to the United States Patent and Trademark Office employees.

(4) Routine uses will also include the Prefatory Statement of General Routine Uses Nos. 1–5, 8–10, and 13, as found at 46 FR 63501–63502 (December 31, 1981).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy and electronic storage media.

RETRIEVABILITY:

By number assigned (called P or R number) or by serial number, title of invention, applicant information or docket number, if any. Records are stored in a searchable database.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by computer, all safeguards appropriate to secure the system (hardware and software) are utilized.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the series records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Patent Examining Technology Center 3600, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

NOTIFICATION PROCEDURE:

Information about the records contained in this system may be obtained by sending a request in writing, signed, to the system manager at the address above or to the address provided in 37 CFR part 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought (including serial number or P number, if known) in accordance with the procedures for making inquiries appearing in 37 CFR part 102 subpart B.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The general provisions for access, contesting contents, and appealing initial determinations by the individual concerned appear in 37 CFR part 102 subpart B. Requests from individuals should be addressed as stated in the notification section above.

RECORD SOURCE CATEGORIES:

Subject individuals or their duly appointed representatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: March 26, 2013.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2013–07393 Filed 3–29–13; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0068]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Public Affairs, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Public Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 31, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to: the Office of the Assistant Secretary of Defense for Public Affairs, ATTN: CPO (Colonel Phil Waite), 1400 Defense, The Pentagon, Washington, DC 20301–1400, or call the Directorate for Community and Public Outreach at (703) 695–3845.

Title; Associated Form; and OMB Number: Request for Armed Forces Participation in Public Events (Non-Aviation), DD Form 2536 and Request for Military Aerial Support, DD Form 2535; OMB Number 0704–0290.

Needs and Uses: This information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community relations support and to determine whether requested military assets are available.

Affected Public: State, local, or tribal governments; Federal agencies or employees; for-profit and non-profit institutions; and individuals or households.

Annual Burden Hours: 17,850.

Number of Respondents: 51,000.
Responses per Respondent: 1.
Average Burden per Response: 21 minutes.
Frequency: On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals or representatives of Federal and non-Federal government agencies, community groups, for-profit and non-profit organizations, and civic organizations requesting Armed Forces support for patriotic events conducted in the civilian domain. DD Forms 2535 and 2536 record the type of military support requested, event data, and sponsoring organization information. The completed forms provide the Armed Forces the minimum information necessary to determine whether an event is eligible for military participation and whether the desired support is permissible and/or available. If the forms are not provided, the review process is greatly increased because the Armed Forces must make additional written and telephonic inquiries with the event sponsor. In addition, use of the forms reduces the event sponsor's preparation time because the forms provide a detailed outline of information required, eliminate the need for a detailed letter, and contain concise information necessary for determining appropriateness of military support. Use of the forms is essential to reduce preparation and processing time, increase productivity, and maximize responsiveness to the public.

Dated: March 27, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–07499 Filed 3–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0065]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Federal Voting Assistance Program, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 31, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Director, Federal Voting Assistance Program, ATTN: Kathleen McDonnell, 4800 Mark Center Drive, Mailbox 10, Alexandria, Virginia 22350–5000, or call 571–372–1168.

Title; Associated Form; and OMB Number: Federal Write-In Absentee Ballot (FWAB), Standard Form 186 (SF–186); OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to fulfill the requirement of the Uniformed and Overseas Absentee Voting Act (UOCAVA), 46 U. S. C. 1973ff wherein the Secretary of Defense is to prescribe the Federal write-in absentee ballot for absent uniformed service voters and overseas voters in general elections for Federal office.

Affected Public: Individuals or Households: Uniformed Services members, eligible family members, U.S. citizens residing outside the U.S. who have requested a State absentee ballot but did not receive one with enough time to vote and return it, and UOCAVA citizens in States that allow the form to be used to apply for voter registration.

Annual Burden Hours: 300,000.
Number of Respondents: 1,200,000.
Responses per Respondent: 1.
Average Burden per Response: 15 minutes.
Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are UOCAVA citizens who desire to vote in a Federal election but did not receive an absentee ballot from their State of residency with enough time to vote and return it. The information provided by these citizens is used by the States to determine if the citizen is a resident of a jurisdiction within that State, has previously requested an absentee ballot (when applicable) and therefore eligible for the enclosed ballot to be counted. In States that allow the form to be used as a voter registration form, the information provided is used by the States to determine if the citizen is a resident of a jurisdiction within that State, and therefore eligible to vote within that jurisdiction and to provide absentee ballots to these citizens for Federal elections held within each calendar year. This form is mandated by 42 U.S.C. 1973ff. The Department of Defense does not receive, collect nor maintain any data provided on the form by these citizens; this data is collected and maintained by the individual States. The burden in the collection of this data resides in the individual States. If the form is not provided, UOCAVA citizens would not have access to the emergency backup ballot and thus, may be disenfranchised from their right as a U.S. citizen to participate in the electoral process. The previous Federal Write-In Absentee Ballot is the edition dated 08–2011. The form has been updated for usability and consistency. The most significant changes on the form are as follows: The Agency Disclosure Statement has been added to the instruction page of the form as per OMB guidance. Block 2 classification has been clarified to include activated National Guard

members on State orders and U.S. citizens who have never resided in the United States. These individuals had previously been listed as U.S. citizens otherwise granted military/overseas voting rights. The overseas citizen selection previously described as ''I am a U.S. citizen residing outside the U.S., and I do not intend to return'' has been reworded for citizens who are unsure of their future plans or are hesitant to sign that they do not intend to return to the country. The intent to return language remains on the form due to the October 2008 National Association Secretaries of State (NASS) Survey of State Statues that shows the majority of States have intent as a prerequisite for obtaining a State ballot. Block 7 has been reworded back to the 2005 form language of ''my voting residence address'' to ensure military voters with more than one potential U.S. address are not registering in the wrong jurisdiction. Block 8 has been reworded to ''where to send my voting materials'' to ensure voters are using their mailing address and not their U.S. voting address. The Affirmation has been modified so that voters do not have to reaffirm information already found on the form. The signature block has been highlighted and the text previously found on the signature and date lines has been moved below it so local election officials can easily read signatures and dates. The mailing envelope has been modified to include a space to identify which election their ballot is being submitted for. This will ensure local election officials do not accidently count a general election ballot for a primary election and disenfranchise a voter because their ballot was not counted in their preferred election. The mailing envelope instructions have been clarified to highlight that the ballot security envelope and mailing envelope are not the same and two envelopes are required.

Dated: March 25, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–07486 Filed 3–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0061]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Federal Voting Assistance Program, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 31, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Director, Federal Voting Assistance Program, ATTN: Kathleen McDonnell, 4800 Mark Center Drive, Mailbox 10, Alexandria, Virginia 22350–5000, or call 571–372–1168.

Title; Associated Form; and OMB Number: Federal Post Card Application (FPCA), Standard Form 76 (SF–76); OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to fulfill the requirement of the Uniformed and Overseas Absentee Voting Act (UOCAVA), 46 U.S.C. 1973ff wherein the Secretary of Defense is to prescribe an official postcard form, containing an absentee voter registration application and an absentee ballot request application for use by the States.

Affected Public: Individuals or Households: Uniformed Services members, eligible family members, U.S. citizens residing outside the U.S.

Annual Burden Hours: 300,000.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are UOCAVA citizens who desire to apply for voter registration and/or request an absentee ballot from their state of residency. The information provided by these citizens is used by the states to determine if the citizen is a resident of a jurisdiction within that state, and therefore eligible to vote within that jurisdiction and to provide absentee ballots to these citizens for Federal elections held within each calendar year. This form is mandated by 42 U.S.C. 1973ff. The Department of Defense does not receive, collect nor maintain any data provided on the form by these citizens; this data is collected and maintained by the individual states. The burden in the collection of this data resides in the individual States. If the form is not provided, UOCAVA citizens may not be able to register to vote in their State of residency nor be able to request absentee ballots and thus may be disenfranchised from their right as a U.S. citizen to participate in the electoral process. The previous Federal Post Card Application is the edition dated 08–2011. The form has been

updated for usability and consistency. The most significant changes on the form are as follows: Block 1 classification has been clarified to include activated National Guard members on State orders and U.S. citizens who have never resided in the United States. These individuals had previously been listed as U.S. citizens otherwise granted military/overseas voting rights. The overseas citizen selection previously described as ''I am a U.S. citizen residing outside the U.S., and I do not intend to return'' has been reworded for citizens who are unsure of their future plans or are hesitant to sign that they do not intend to return to the country. The intent-to-return language remains on the form due to the October 2008 National Association Secretaries of State (NASS) Survey of State Statues that shows the majority of States have intent as a prerequisite for obtaining a State ballot. Block 7 has been reworded back to the 2005 FPCA language of ''my voting residence address'' to ensure military voters with more than one potential U.S. address are not registering in the wrong jurisdiction. Block 8 has been reworded to ''where to send my ballot'' to ensure voters are using their mailing address and not their U.S. voting address. The Affirmation has been modified so that voters do not have to reaffirm information already found on the form. The signature block has been highlighted and the text previously found on the signature and date lines has been moved below it so local election officials can easily read signatures and dates. The Agency Disclosure Statement has been added to the instruction page of the form as per OMB guidance.

Dated: March 25, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–07485 Filed 3–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0010]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); DoD Pilot Mentor-Protégé Program

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through August 31, 2013. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by May 31, 2013.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0332, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: dfars@osd.mil. Include OMB Control Number 0704–0441 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Lee Renna, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Renna, 571–372–6095. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Lee Renna, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704–0332.

Needs and Uses: DoD needs this information to evaluate whether the purposes of the DoD Pilot Mentor-Protege Program have been met. The purposes of the Program are to (1) provide incentives to major DoD contractors to assist protege firms in enhancing their capabilities to satisfy contract and subcontract requirements; (2) increase the overall participation of protege firms as subcontractors and suppliers; and (3) foster the establishment of long-term business relationships between protege firms and major DoD contractors. This Program implements Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510) and Section 811 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) (10 U.S.C. 2302 note). Participation in the Program is voluntary.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Number of Respondents: 115.

Responses per Respondent: 1.96.

Annual responses: 225.

Average Burden per Response: Approximately 1 hour.

Annual Burden Hours for Responses: 225.

Total Recordkeeping Hours: 357.

Annual Burden Hours: 582.

Frequency: Semiannually (mentor); Annually (protégé).

Summary of Information Collection

DFARS Appendix I–112.2(a)–(d) requires mentor firms to report on the progress made under active mentor-protege agreements semiannually for the periods ending March 31st and September 30th. The September 30th report must address the entire fiscal year. Reports must include—

(1) Data on performance under the mentor-protege agreement, including dollars obligated, expenditures, credit taken under the Program, applicable subcontract awards under DoD contracts, developmental assistance provided, impact of the agreement, and progress of the agreement; and

(2) For each contract where developmental assistance was credited toward an SDB subcontracting goal, a copy of the Individual Subcontracting Report (ISR) or SF 294, and/or the Summary Subcontracting Report (SSR) or SF 295, with a statement identifying—

(i) The amount of dollars credited to the applicable subcontracting goal as a result of developmental assistance

provided to protege firms under the Program; and

(ii) The number and dollar value of subcontracts awarded to the protege firm(s), broken out per protege.

DFARS Appendix I–112.2(e) requires the protege firm to annually provide data by October 31st on the progress made by the protege firm in employment, revenues, and participation in DoD contracts during each fiscal year of the Program participation term and each of the two fiscal years following the expiration of the Program participation term. During the Program participation term, the firms may provide this data as part of the mentor report required by I–112.2(a) for the period ending September 30th.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–07462 Filed 3–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Minority Science and Engineering Improvement Program

AGENCY: Office of Postsecondary Education, Department of Education

ACTION: Notice.

Overview Information:

Minority Science and Engineering Improvement Program (MSEIP) .

Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.120A.

DATES: *Applications Available:* April 1, 2013.

Deadline for Transmittal of Applications: May 31, 2013.

Deadline for Intergovernmental Review: July 30, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The MSEIP is designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities, particularly minority women, into scientific and technological careers.

Priorities: This notice contains one competitive preference priority and two invitational priorities. The competitive preference priority is from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Competitive Preference Priority: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we will award an additional two points to an application that meets this competitive preference priority.

This priority is:

Competitive Preference Priority: Increasing Postsecondary Success.

Projects that are designed to address the following priority area:

Increasing the number and proportion of high-need students (as defined in this notice) who persist in and complete college or other postsecondary education and training.

Note: Applicants seeking to address the competitive priority must do so in the context of meeting all other program requirements, including those provisions requiring a focus on science and engineering education in the grants funded under this program. Applicants should also consider how all elements of their proposed project contribute to the priority.

Invitational Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1: Institutionalize Practices that have Evidence of Success. Building institutional capacity to effect long-range improvement in science and engineering education through projects that are supported by strong or moderate evidence of effectiveness (as defined in this notice).

Invitational Priority 2: Improve STEM Education in the First Two Years of College.

This invitational priority invites applications to eliminate systemic problems and impediments that result in high failure and dropout rates within the introductory years of science and engineering programs. We invite applications for projects that are designed to improve student success and retention in the first two years with actions, including, but not limited to, one or more of the following:

(a) Providing greater exposure to science and engineering real-world problems in the first two years through actions such as the appropriate sequencing of courses.

(b) Introducing recent innovations and discoveries in the first two years to make science and engineering education relevant. The students should experience real developments such as those led by nanotechnology, cell biology, and ICT (Information and Communication Technologies).

(c) Widespread integration of research courses into the introductory STEM curricula. Expand the use of scientific research and engineering design courses in the first two years.

(d) Increasing opportunities for student research and design in faculty research laboratories.

(e) Developing new curricula that integrate scientific theory with real-world applications in scientific problem-solving and engineering design, in the context of global environmental, energy, and economic problems.

(f) Adopting pedagogy for integrative teaching.

(g) Establishing programs to train faculty in evidence-based teaching practices, and catalyzing widespread adoption of empirically validated teaching practices.

(h) Seeking institutional and accreditation support for changes in curricular, pedagogical, and graduation requirements that are necessary to improve the first two years of STEM coursework.

Definitions: The following definitions are from the notice of final supplemental priorities and definitions for discretionary grant programs published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637), and apply to the priorities in this notice:

Carefully matched comparison group design means a type of quasi-experimental study (as defined in this notice) that attempts to approximate an experimental study (as defined in this notice). More specifically, it is a design in which project participants are matched with non-participants based on key characteristics that are thought to be related to the outcome. These characteristics include, but are not limited to:

(1) Prior test scores and other measures of academic achievement (preferably, the same measures that the study will use to evaluate outcomes for the two groups);

(2) Demographic characteristics, such as age, disability, gender, English proficiency, ethnicity, poverty level, parents' educational attainment, and

single- or two-parent family background;

(3) The time period in which the two groups are studied (e.g., the two groups are children entering kindergarten in the same year as opposed to sequential years); and

(4) Methods used to collect outcome data (*e.g.,* the same test of reading skills administered in the same way to both groups).

Experimental study means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to participate in a project being evaluated (treatment group) or not to participate in the project (control group). The effect of the project is the average difference in outcomes between the treatment and control groups.

High-need children and high-need students means children and students at risk of educational failure, such as children and students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

Interrupted time series design means a type of quasi-experimental study (as defined in this notice) in which the outcome of interest is measured multiple times before and after the treatment for program participants only. If the program had an impact, the outcomes after treatment will have a different slope or level from those before treatment. That is, the series should show an ''interruption'' of the prior situation at the time when the program was implemented. Adding a comparison group time series, such as schools not participating in the program or schools participating in the program in a different geographic area, substantially increases the reliability of the findings.[1]

Moderate evidence means evidence from previous studies whose designs can support causal conclusions (*i.e.,* studies with high internal validity) but have limited generalizability (*i.e.,* moderate external validity), or studies with high external validity but moderate internal validity. The following would constitute moderate evidence:

(1) At least one well-designed and well-implemented (as defined in this notice) experimental or quasi-experimental study (as defined in this notice) supporting the effectiveness of the practice, strategy, or program, with small sample sizes or other conditions of implementation or analysis that limit generalizability;

(2) At least one well-designed and well-implemented (as defined in this notice) experimental or quasi-experimental study (as defined in this notice) that does not demonstrate equivalence between the intervention and comparison groups at program entry but that has no other major flaws related to internal validity; or

(3) Correlational research with strong statistical controls for selection bias and for discerning the influence of internal factors.

Quasi-experimental study means an evaluation design that attempts to approximate an experimental study (as defined in this notice) and can support causal conclusions (*i.e.,* minimizes threats to internal validity, such as selection bias, or allows them to be modeled). Well-designed and well-implemented (as defined in this notice) quasi-experimental studies include carefully matched comparison group designs (as defined in this notice), interrupted time series designs (as defined in this notice), or regression discontinuity designs (as defined in this notice).

Regression discontinuity design study means, in part, a quasi-experimental study (as defined in this notice) design that closely approximates an experimental study (as defined in this notice). In a regression discontinuity design, participants are assigned to a treatment or comparison group based on a numerical rating or score of a variable unrelated to the treatment such as the rating of an application for funding. Another example would be assignment of eligible students, teachers, classrooms, or schools above a certain score (''cut score'') to the treatment group and assignment of those below the score to the comparison group.

Strong evidence means evidence from previous studies whose designs can support causal conclusions (*i.e.,* studies with high internal validity), and studies that in total include enough of the range of participants and settings to support scaling up to the State, regional, or national level (*i.e.,* studies with high external validity). The following are examples of strong evidence:

(1) More than one well-designed and well-implemented (as defined in this notice) experimental study (as defined in this notice) or well-designed and well-implemented (as defined in this notice) quasi-experimental study (as defined in this notice) that supports the effectiveness of the practice, strategy, or program; or

(2) One large, well-designed and well-implemented (as defined in this notice) randomized controlled, multisite trial that supports the effectiveness of the practice, strategy, or program.

Well-designed and well-implemented means, with respect to an experimental or quasi-experimental study (as defined in this notice), that the study meets the What Works Clearinghouse evidence standards, with or without reservations (*see http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1* and in particular the description of ''Reasons for Not Meeting Standards'' at *http://ies.ed.gov/ncee/wwc/references/idocviewer/Doc.aspx?docId=19&tocId=4#reasons*).

Program Authority: 20 U.S.C. 1067–1067k.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 86, 97, 98, and 99; (b) The Education Department suspension and debarment regulations in 2 CFR part 3485; (c) The regulations for this program in 34 CFR part 637; (d) The notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

[1] A single subject or single case design is an adaptation of an interrupted time series design that relies on the comparison of treatment effects on a single subject or group of single subjects. There is little confidence that findings based on this design would be the same for other members of the population. In some single subject designs, treatment reversal or multiple baseline designs are used to increase internal validity. In a treatment reversal design, after a pretreatment or baseline outcome measurement is compared with a post treatment measure, the treatment would then be stopped for a period of time; a second baseline measure of the outcome would be taken, followed by a second application of the treatment or a different treatment. A multiple baseline design addresses concerns about the effects of normal development, timing of the treatment, and amount of the treatment with treatment-reversal designs by using a varying time schedule for introduction of the treatment and/or treatments of different lengths or intensity.

Estimated Available Funds: The Administration has requested $8,992,686 for this program for FY 2013, of which it intends to allocate $2,906,074 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.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 from the list of unfunded applications from this competition.

Estimated Range of Awards: Institutional Project Grants: $150,000–$250,000. Special Project Grants: $100,000–$250,000. Cooperative Project Grants: $250,000–$300,000.

Estimated Average Size of Awards: Institutional Project Grants: $200,000. Special Project Grants: $175,000. Cooperative Project Grants: $275,000.

Maximum Awards: Institutional Project Grants: $250,000. Special Project Grants: $250,000. Cooperative Project Grants: $300,000. We may choose not to further consider or review applications with budgets that exceed the maximum award. We may choose not to further consider or review applications with the budget for a single budget period of 12 months exceeding the maximum award. The Assistant Secretary for Postsecondary Education may change the maximum amounts through a notice published in the **Federal Register**.

Estimated Number of Awards: Institutional Project Grants: 10; Special Project Grants: 1; Cooperative Project Grants: 1.

Project Period: Up to 36 months.

III. Eligibility Information

1. Eligible Applicants: The eligibility of an applicant is dependent on the type of MSEIP grant. There are four types of MSEIP grants:

Institutional projects, special projects, cooperative, and design.

Institutional project grants are grants that support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

There are two types of special projects grants. There are special projects grants for which minority institutions are eligible. These special projects grants support activities that: (1) Improve quality training in science and engineering at minority institutions; or (2) enhance the minority institutions' general scientific research capabilities. There are also special projects grants for which all applicants are eligible. These special projects grants support activities that: (1) Provide a needed service to a group of eligible minority institutions; or (2) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

Cooperative project grants assist groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

Design project grants assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs. We will not award design project grants in the FY 2013 competition.

(a) For institutional project grants, eligible applicants are limited to:

(1) Public and private nonprofit institutions of higher education that (i) Award baccalaureate degrees; and (ii) are minority institutions;

(2) Public or private nonprofit institutions of higher education that (i) Award associate degrees; and (ii) are minority institutions that (A) Have a curriculum that includes science or engineering subjects; and (B) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering.

(b) For special projects grants for which minority institutions are eligible, eligible applicants are described in paragraph (a).

(c) For special projects grants for which all applicants are eligible, eligible applicants include those described in paragraph (a), and

(1) Nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees that: (i) Provide a needed service to a group of minority institutions; or (ii) provide in-service training to project directors, scientists, and engineers from minority institutions; or

(2) A consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—(i) Institutions of higher education which have a curriculum in science or engineering; (ii) institutions of higher education that have a graduate or professional program in science or engineering; (iii) research laboratories of, or under contract with, the Department of Energy, the Department of Defense or the National Institutes of Health; (iv) relevant offices of the National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, National Science Foundation and National Institute of Standards and Technology; (v) quasi-governmental entities that have a significant scientific or engineering mission; or (vi) institutions of higher education that have State-sponsored centers for research in science, technology, engineering, and mathematics.

(d) For cooperative projects grants, eligible applicants are groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution as defined in 34 CFR 637.4(b).

Note: As defined in 34 CFR 637.4(b), ''minority institution'' means an accredited college or university whose enrollment of a single minority group or a combination of minority groups exceeds 50 percent of the total enrollment.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application via the Internet at Grants.gov. If you do not have access to the Internet, please contact Krish Mathur, U.S. Department of Education, 1990 K Street NW., Washington, DC 20006–8517. Telephone: (202) 502–7512.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer disc) by contacting the program contact persons listed in this section.

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 have established a mandatory page limit for the application narrative of each type of MSEIP grant project as follows:

Institutional project grants: 40 pages;

Special projects grant application: 35 pages;

Cooperative project grant application: 50 pages.

You must limit the application narrative (Part III) to these established

page limits, using the following standards:

• A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and a document identifier may be within the 1″ margin.

• Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions, and all text in charts, tables, and graphs. These items may be single spaced; however, they will count toward the page limit.

• Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, and graphs.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

If you use some but not all of the allowable space on a page, it will be counted as a full page in determining compliance with the page limit.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the budget justification; Part IV, the one-page abstract, the table of contents, the MSEIP Eligibility Certification Form, required letter(s) of commitment, evidence of partnerships, or the assurances and certifications. If you include any attachments or appendices not specifically requested, these items will be counted as part of the program narrative (Part III) for purposes of the page limit requirement. You must include your complete responses to the selection criteria in the program narrative.

We will reject your application if you exceed the page limit. We will also reject your application if you fail to provide the MSEIP Eligibility Certification Form.

3. *Submission Dates and Times:*

Applications Available: April 1, 2013.

Deadline for Transmittal of Applications: May 31, 2013.

Applications for grants under this program 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.

Deadline for Intergovernmental Review: July 30, 2013.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

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, 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 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/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 MSEIP, CFDA Number 84.120A, 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 MSEIP 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 84.120, not 84.120A).

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. Additional, detailed information on how to attach files is in the application instructions.

• 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 prevent 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: Krish Mathur, U.S. Department of Education, 1990 K Street NW., room 6032, Washington, DC 20006–8517. Fax: (202) 502–7877.

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 84.120A),
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 84.120A),
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 program are from 34 CFR 637.32(a) through (j). Applicants must address each of the selection criteria. The total weight of the selection criteria is 100 points; the weight of each criterion is noted in parentheses. Please see the application package for detailed explanation of these criteria. The selection criteria are as follows:

(a) Identification of need for the project (Total 5 points).

(b) Plan of operation (Total 20 points).

(c) Quality of key personnel (Total 5 points).

(d) Budget and cost effectiveness (Total 10 points).

(e) Evaluation plan (Total 15 points).

(f) Adequacy of resources (Total 5 points).

(g) Potential institutional impact of the project (Total 15 points).

(h) Institutional commitment to the project (Total 5 points).

(i) Expected Outcomes (Total 10 points).

(j) Scientific and educational value of the proposed project (Total 10 points).

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).

Tiebreaker for Institutional, Special Project, and Cooperative Grants. If there are insufficient funds for all applications with the same total scores, applications will receive preference in the following manner. The Secretary gives priority to applicants which have not previously received funding from the program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among funded projects with respect to: (1) Geographic region; (2) Academic discipline; and (3) Project type.

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 in 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). Please see the application package for details of annual and final reporting requirements. For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the MSEIP: (1) The percentage of change in the number of full-time, degree-seeking minority undergraduate students at the grantee's institution enrolled in the fields of engineering or physical or biological sciences, compared to the average minority enrollment in the same fields in the three-year period immediately prior to the beginning of the current grant; (2) the percentage of minority

students enrolled at four-year minority-serving institutions in the fields of engineering or physical or biological sciences who graduate within six years of enrollment. Please see the application package for details of data collection and reporting requirements for 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: Krish Mathur, U.S. Department of Education, 1990 K Street, NW., room 6155, Washington, DC 20006–8517 by telephone: (202) 502 7512, or by email: *Krish.mathur@ed.gov.*

If you use a TDD or a 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) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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: March 27, 2013.

David A. Bergeron,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2013–07559 Filed 3–29–13; 8:45 am]

BILLING CODE 4000–01–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: RP13–702–000.
Applicants: Egan Hub Storage, LLC.
Description: Termination of Contract 310527 to be effective 4/25/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5038.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–703–000.
Applicants: Bison Pipeline LLC.
Description: Bison Pipeline LLC Company Use Gas Annual Report.
Filed Date: 3/25/13.
Accession Number: 20130325–5052.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–704–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Renaissance Trading Negotiated Rate to be effective 4/1/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5071.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–705–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Negotiated Rate—EDF to be effective 4/1/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5073.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–706–000.
Applicants: Kern River Gas Transmission Company
Description: 2013 Automation of IT Contracts to be effective 4/25/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5114.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–707–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—March 25, 2013 Negotiated Rate Agreements to be effective 3/26/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5135.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–708–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 03/25/13 Negotiated Rates—BG Energy Merchants, LLC (HUB) 6040–89 to be effective 4/15/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5145.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–709–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 03/25/13 Negotiated Rates—JP Morgan Ventures Energy Corp. (HUB) 6025–89 to be effective 4/15/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5146.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–710–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Request for Waiver and Extension of Previous Waiver of El Paso Natural Gas Company, L.L.C.
Filed Date: 3/25/13.
Accession Number: 20130325–5187.
Comments Due: 5 p.m. ET 4/8/13.

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.

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: March 26, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07490 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–83–000.
Applicants: Canadian Hills Wind, LLC.
Description: Application of Canadian Hills Wind, LLC for Authorization under Section 203 of the Federal Power Act for Disposition of Jurisdictional Facilities and Request for Expedited Consideration.
Filed Date: 3/21/13.
Accession Number: 20130321–5132.
Comments Due: 5 p.m. ET 4/11/13.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–21–000.
Applicants: Alta Wind X, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Alta Wind X, LLC.
Filed Date: 3/21/13.
Accession Number: 20130321–5127.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: EG13–22–000.
Applicants: Alta Wind XI, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Alta Wind XI, LLC.
Filed Date: 3/21/13.
Accession Number: 20130321–5128.
Comments Due: 5 p.m. ET 4/11/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2676–000.
Applicants: Piedmont Green Power, LLC.
Description: In response to the informal request of Commission Staff for additional information of Piedmont Green Power, LLC.
Filed Date: 3/20/13.
Accession Number: 20130320–5056.
Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: ER13–233–001.
Applicants: Appalachian Power Company.
Description: Appalachian Power Company submits tariff filing per 35.17(b): Power Coordination Agreement Amendment to be effective 1/1/2014.
Filed Date: 3/22/13.
Accession Number: 20130322–5146.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1141–000.
Applicants: Essential Power Massachusetts, LLC.
Description: Notice of Succession to be effective 3/21/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5055.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1142–000.
Applicants: Essential Power Newington, LLC.
Description: Notice of Succession to be effective 3/21/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5056.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1143–000.
Applicants: Essential Power OPP, LLC.
Description: Notice of Succession to be effective 3/21/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5059.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1144–000.
Applicants: Essential Power Rock Springs, LLC.
Description: Notice of Succession to be effective 3/21/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5062.
Comments Due: 5 p.m. ET 4/11/13

Docket Numbers: ER13–1145–000.
Applicants: Puget Sound Energy, Inc.
Description: Puget Sound Energy, Inc. submits tariff filing per 35.12: Powerex Transmission Agreements to be effective 4/1/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5109.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1146–000
Applicants: Puget Sound Energy, Inc.
Description: Puget Sound Energy, Inc. submits tariff filing per 35.12: Morgan Stanley Transmission Agreements to be effective 4/1/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5117.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1147–000.
Applicants: Southern California Edison Company
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: GIAs and Distribution Service Agmts with Mammoth Pacific Ltd, G1 and G3 Projects to be effective 4/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5001.
Comments Due: 5 p.m. ET 4/12/13.
Docket Numbers: ER13–1148–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Revised Added Facilities Rate for Garnet Energy Corporation to be effective 1/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5002.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1149–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: New England Power Pool Participants Committee submits tariff filing per 35.13(a)(2)(iii: Elimination of Obsolete Provisions to be effective 6/15/2013.)
Filed Date: 3/22/13.
Accession Number: 20130322–5054.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1150–000.
Applicants: Alta Wind X, LLC.
Description: Alta Wind X, LLC submits tariff filing per 35.12: MBR Tariff to be effective 4/22/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5065.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1151–000.
Applicants: Alta Wind XI, LLC.
Description: Alta Wind XI, LLC submits tariff filing per 35.12: MBR Tariff to be effective 4/22/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5067.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1152–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: IPA Mona Relay Replacement Agreement to be effective 5/22/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5071.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1153–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits BED Resource Termination.
Filed Date: 3/22/13.
Accession Number: 20130322–5089.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1154–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits Comverge Resource Termination.
Filed Date: 3/22/13.
Accession Number: 20130322–5090.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1155–000.
Applicants: DTE Stockton, LLC.
Description: Application for Market-Based Rate Authority to be effective 4/17/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5100.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1156–000.
Applicants: Vineland Energy LLC.
Description: Category Seller Clarification to be effective 3/22/2013.

Filed Date: 3/22/13.
Accession Number: 20130322–5105.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1157–000.
Applicants: Ameren Illinois Company.
Description: WVPA Meter Replacement Letter Agreement RS 141 to be effective 12/13/2012.
Filed Date: 3/22/13.
Accession Number: 20130322–5114.
Comments Due: 5 p.m. ET 4/12/13.

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: March 22, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07492 Filed 3–29–13; 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: RP13–697–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Negotiated Rate—SW Energy contract 820131 4–1–2013 to be effective 4/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5037.
Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: RP13–698–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Negotiated Rate—Twin Eagle to be effective 4/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5051.
Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: RP13–699–000.
Applicants: CenterPoint Energy Gas Transmission Comp.
Description: CEGT LLC—Fuel Tracker Filing Effective May 1, 2013 to be effective 5/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5056
Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: RP13–700–000.
Applicants: Cheyenne Plains Gas Pipeline Company, L.
Description: Non-Conforming Negotiated Rate Agreement and Points of Contact Filing to be effective 4/1/2013.
Filed Date: 3/22/13.
Accession Number: 20130322–5082.
Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: RP13–701–000.
Applicants: Texas Gas Transmission, LLC
Description: Revision to Letter Agmts for ENS/EFT Addendums to be effective 4/25/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5033.
Comments Due: 5 p.m. ET 4/8/13.

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.

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: March 25, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07494 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2329–001.
Applicants: Vineland Energy LLC.
Description: Vineland Energy LLC submits Triennial Market Based Rate Update in the Northeast Region out of time.
Filed Date: 3/22/13.
Accession Number: 20130322–5190.
Comments Due: 5 p.m. ET 5/21/13.

Docket Numbers: ER13–823–000; *ER13–823–001.*
Applicants: Castleton Commodities Merchant Trading L.P.
Description: Castleton Commodities Merchant Trading L.P. submits Second Supplement to January 29, 2013 notice of succession.
Filed Date: 3/19/13.
Accession Number: 20130319–5083.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1158–000.
Applicants: Midwest Independent Transmission System Operator. Inc., PJM Interconnection, L.L.C.
Description: Technical filing to restore MISO–PJM JOA Att 2 sections to the FERC Viewer to be effective 9/17/2010.
Filed Date: 3/22/13.
Accession Number: 20130322–5174.
Comments Due: 5 p.m. ET 4/12/13.

Docket Numbers: ER13–1159–000.
Applicants: National Grid Generation LLC.
Description: Amended and Restated Power Supply Agreement to be effective 5/28/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5002.
Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: ER13–1160–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination of Westlands Solar Farm E&P Agreement to be effective 2/19/2013.
Filed Date: 3/25/13.
Accession Number: 20130325–5012.
Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: ER13–1161–000.
Applicants: Orange Grove Energy, L.P.
Description: Orange Grove Amended and Restated Black Start Agreement to be effective 12/31/9998.
Filed Date: 3/25/13.
Accession Number: 20130325–5040.
Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: ER13–1162–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Notice of Cancellation of Wholesale Market Participation Agreement No. 2404.
Filed Date: 3/25/13.
Accession Number: 20130325–5070.
Comments Due: 5 p.m. ET 4/15/13.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–111–005.
Applicants: Portland General Electric Company.
Description: Annual Informational Filing on Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A of Portland General Electric.
Filed Date: 3/25/13.
Accession Number: 20130325–5068.
Comments Due: 5 p.m. ET 4/15/13.

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: March 25, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07493 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–630–000.
Applicants: Arizona Public Service Company.
Description: Supplement to December 28, 2012 Arizona Public Service Company Triennial Market Power Update.
Filed Date: 3/19/13.
Accession Number: 20130319–5124.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1137–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: 03–20–2013 Module D Clarification to be effective 3/26/2013.
Filed Date: 3/20/13.
Accession Number: 20130320–5090.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1138–000.
Applicants: Duke Energy Indiana, Inc.
Description: 2013 Annual Reconciliation Filing RS 253 to be effective 7/1/2012.
Filed Date: 3/21/13.
Accession Number: 20130321–5014.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1139–000.
Applicants: Imperial Valley Solar 1, LLC.
Description: Application for Market-Based Rate Authority to be effective 3/22/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5027.
Comments Due: 5 p.m. ET 4/11/13.

Docket Numbers: ER13–1140–000.
Applicants: Southern California Edison Company.
Description: Letter Agreement NRG Solar Alpine II Project to be effective 3/11/2013.
Filed Date: 3/21/13.
Accession Number: 20130321–5042.
Comments Due: 5 p.m. ET 4/11/13.

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: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07491 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14421–000—ME]

Freedom Falls, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for exemption from licensing for the Freedom Falls Hydroelectric Project, to be located on Sandy Stream, in the Town of Freedom, Waldo County, Maine, and has prepared an Environmental Assessment (EA). In the EA, Commission staff analyzes the potential environmental effects of the project and concludes that issuing an exemption for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Samantha Davidson at (202) 502–6839 or *samantha.davidson@ferc.gov.*

Dated: March 25, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–07417 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2351–017]

Public Service Company of Colorado; Notice of Settlement Agreement and Soliciting Comments

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.
b. *Project No.:* P–2351–017.
c. *Date filed:* March 22, 2013.
d. *Applicant:* Public Service Company of Colorado.
e. *Name of Project:* Cabin Creek Pumped Storage Hydroelectric Project.

f. *Location:* The existing project is located on the South Clear Creek and its tributary Cabin Creek in Clear Creek County, Colorado. The project, as currently licensed, is located on 267 acres of U.S. Forest Service lands within the Arapaho National Forest.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Christine E. Johnston, Xcel Energy, 4653 Table Mountain Drive, Golden, CO 80403; (720) 497–2156.

i. *FERC Contact:* Ryan Hansen, (202) 502–8074, *ryan.hansen@ferc.gov*.

j. Deadline for filing comments: 20 days from the filing of the Settlement Agreement; reply comments are due 30 days from the filing of the Settlement Agreement.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The Public Service Company of Colorado (PSCo) filed the Settlement Agreement on behalf of itself and the U.S. Forest Service. The purpose of the Settlement Agreement is to resolve among the signatories all issues associated with issuance of a new license for the project regarding instream flows, water quality, aquatic habitat, terrestrial habitat, recreation, aesthetics, and cultural resources. PSCo requests that the Commission accept and incorporate, without material modification, as license articles in the new license to be issued for the project all of the proposed license articles set forth in Attachment 1 to the Settlement Agreement.

l. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 25, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–07418 Filed 3–29–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2013–0125; FRL–9795–7]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Advisory Committee Meeting Teleconference Call.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC). The National and Governmental Advisory Committees advise the EPA Administrator in his capacity as the U.S. Representative to the CEC Council. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182, and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The NAC is composed of 14 members representing academia, environmental non-governmental organizations, and private industry. The GAC consists of 15 members representing state, local, and Tribal governments. The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory, and economic issues related to implementation and further elaboration of the NAAEC.

The purpose of this committee meeting is to provide advice on the 2013–14 Draft Operational Plan and Budget of the CEC and to discuss other trade and environment issues related to the NAAEC. The meeting will also include a public comment session. The agenda and meeting materials will be available at *http://www.regulations.gov* under Docket ID: EPA–HQ–OA–2013–0125. General information about NAC and GAC can be found at *http://www.epa.gov/ofacmo/nacgac-page.htm.*

DATES: The NAC/GAC will hold a public teleconference on Thursday, April 25, 2013, from 12:00 p.m. to 4:00 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. EPA East Building, 1201 Constitution Avenue NW., Room 1132, Washington, DC 20004

FOR FURTHER INFORMATION CONTACT: Oscar Carrillo, Designated Federal Officer, *carrillo.oscar@epa.gov,* 202–564–0347, U.S. EPA, Office of Federal Advisory Committee Management and Outreach (1601–M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to NAC/GAC should be sent to Oscar Carrillo at *carrillo.oscar@epa.gov* by Wednesday, April 17, 2013. The meeting is open to the public, with limited seating on a first-come, first-served basis. Members of the public wishing to participate in the teleconference should contact Oscar Carrillo at *carrillo.oscar@epa.gov* or (202) 564–0347 by April 17, 2013.

Meeting Access: For information on access or services for individuals with disabilities, please contact Oscar Carrillo at 202–564–0347 or *carrillo.oscar@epa.gov.* To request accommodation of a disability, please contact Oscar Carrillo, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 20, 2013.

Oscar Carrillo,

Designated Federal Officer.

[FR Doc. 2013–07389 Filed 3–29–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 31, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0804.

Title: Universal Service—Rural Health Care Program.

Form Numbers: FCC Forms 460, 461, 462, 463 (new); 465, 466, 466–A, and 467.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; federal government; and state, local, or Tribal governments.

Number of Respondents and Responses: 10,400 respondents; 38,745 responses.

Estimated Time per Response: 1.69 hours.

Frequency of Response: On occasion, one time, annual, quarterly, and monthly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 154(i), 154(j), 201–205, 214, 254 and 403.

Total Annual Burden: 65,614 hours.

Total Annual Cost: $60,000.

Privacy Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules. We note that the universal service administrator must preserve the confidentiality of all data obtained from respondents and contributors to the universal service support program mechanism; must not use the data except for purposes of administering the universal service support program; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Federal Communications Commission (hereinafter referred to as the Commission or FCC) seeks Office of Management and Budget (OMB) approval of revisions (change in reporting and recordkeeping requirements) of an information collection (IC) previously approved by OMB under this OMB Control Number 3060–0804, which is utilized for the rural health care (RHC) support mechanism of the Commission's universal service fund (USF). The purpose of the revision is to seek approval for: (1) New information collection requirements associated with the Healthcare Connect Fund, a new RHC fund created by the Commission's Report and Order, Rural Health Care Support Mechanism, WC Docket No. 02–60, FCC 12–150 (released Dec. 21, 2012) (Healthcare Connect Fund Order); (2) new information collection requirements associated with a skilled nursing facilities pilot program (SNF Pilot) created in the Healthcare Connect Fund Order; (3) revisions to the annual reporting requirement for participants in the Commission's existing rural health care Pilot Program (2006 Pilot Program), created in 2006; and (4) extend the information collection requirements for the existing RHC programs (the Telecommunications Program and the Internet Access Program, as well as the 2006 Pilot Program).

The Commission issued a Notice of Proposed Rulemaking (NPRM) in July 2010 (FCC 10–125) that led to the Healthcare Connect Fund Order, and received OMB pre-approval for the information collection requirements proposed in the NPRM. The Healthcare Connect Fund Order, however, adopted information collection requirements that are in some ways significantly different from those proposed in the NPRM, based on the comments received in the rulemaking proceeding. Many of the proposed requirements have been modified in light of commenters' recommendations on streamlining and simplifying the information collection burden, especially on smaller health care providers.

The information collections described in this notice are contained in new rules adopted in the Healthcare Connect Fund Order (47 CFR 54.601(b), 54.631(a), 54.631(c), 54.632, 54.633(c), 54.634(b), 54.636, 54.639(d), 54.640(b), 54.642, 54.643, 54.645, 54.646, 54.647, 54.648(b), 54.675(d), and 54.679), and existing rules as amended by the Healthcare Connect Fund Order (47 CFR 54.603(a), 54.603(b), 54.609(d)(2), 54.615(c), 54.619(a)(1), 54.619(d), and 54.623(a)).

Beginning in Funding Year 2012, its filing process to provide a simple, web-based, user-friendly interface for submission of the Telecommunications and Internet Access Program information collections. Applicants are also able to upload required documentation (such as a bill) as they complete the online form. The interface is designed to provide online storage of applications and related materials for health care providers, in order to ease compliance with recordkeeping requirements and possible audits.

Furthermore, the system is designed to carry forward information already provided by an applicant to future filings (*i.e.* pre-populate data), in order to further reduce the filing burden. Respondents in the Telecommunications and Internet Access Programs can also send their forms and other documents to USAC via mail or electronic mail. Respondents in the 2006 Pilot Program can send forms and documents via electronic mail, and invoices via mail.

USAC will implement the information collection for the new Healthcare Connect Fund through an online-only interface on the USAC Web site. Health care providers who lack sufficient Internet access will be able to contact USAC's help desk over the telephone to obtain assistance with filing.

Revised Information Collection Requirements: (1) HEALTHCARE CONNECT FUND: In December 2012, the Commission established the Healthcare Connect Fund, which reforms, expands, and modernizes the RHC program based on lessons learned from the 2006 Pilot Program. The Healthcare Connect Fund is separate from the Telecommunications Program and the 2006 Pilot Program. The Healthcare Connect Fund provides support, in part, for services similar to those supported under the Internet Access Program. Therefore, the Commission will stop providing support under the Internet Access Program for services received after June 30, 2014.

The following are the new Healthcare Connect Fund information collection requirements:

(a) Authorization for Third Parties To Submit Forms on Behalf of HCP/Consortium. Third parties (for example, consultants) may submit forms and other documentation on behalf of eligible health care providers if USAC receives, prior to submission of the forms or documentation, a written, dated, and signed authorization from the relevant officer, director, or other authorized employee stating that the HCP or Consortium Leader accepts all potential liability from any errors, omissions, or misrepresentations on the forms and/or documents being submitted by the third party.

(b) Form 460—Eligibility Determination and Consortium Information. Healthcare Connect Fund participants would be required to file a new FCC Form 460 in order to certify that they are eligible to receive support from the Fund. Applicants will be required to provide the HCP's address and contact information, identify the eligible HCP type, provide an address for each physical location that will receive supported connectivity, provide a brief explanation for why the HCP is eligible under the Act and the Commission's rules and orders, and certify to the accuracy of this information under penalty of perjury. They may also be required to provide a unique health care provider identifying number, such as a National Provider Identifier code and/or taxonomy code. Consortium applicants may file FCC Form 460 on behalf of member HCPs if they have a letter of agency (discussed below). Applicants must also register off-site administrative offices and off-site data centers for which they are receiving support.

FCC Form 460 will also be used to provide certain basic information about consortia to USAC: (1) The lead entity (''Consortium Leader''); (2) the individual contact person within the lead entity (the ''Project Coordinator''); and (3) HCP sites that will participate in a consortium, including sites ineligible to receive support.

(c) Form 460 Attachment: Letter of Agency. Each Consortium Leader must also obtain a letter of agency (LOA) from each HCP participant that is independent of the Consortium Leader (i.e. HCP sites that are not owned or otherwise controlled by the Consortium Leader). The LOA is submitted as an attachment to FCC Form 460. The purposes of the LOA are to provide authority for the Consortium Leader to submit FCC Forms 460, 461, and/or 462 on behalf of the HCP site. Consortium leaders are required to obtain supporting information and/or documents to support eligibility for each HCP when they collect the LOAs, and may be asked for this information during a future audit or investigation.

(d) Form 460 Attachment: State/Non-Profit Entities That Want To Serve as Both Vendor and Consortium Leader/Consultant. In general, an entity may not simultaneously (1) serve as a Consortium Leader or provide consulting assistance to a consortium, and (2) participate as a potential vendor during the competitive bidding process. State organizations, public sector entities, or non-profit entities who wish to obtain an exemption from this prohibition may make a showing to USAC that they have set up an organizational and functional separation. The exemption must be obtained before the consortium begins preparing its FCC Form 461 (request for services) and associated documents.

(e) Form 460 Attachment—Agreement Regarding Legal and Financial Responsibility for Consortium Activities. Consortia may allocate legal and financial responsibility for supported program activities as they see fit, except for certain responsibilities specified in the Healthcare Connect Fund Order, provided that this allocation is memorialized in a formal written agreement between the affected parties (i.e. the Consortium Leader, and the consortium as a whole and/or its individual members). The written agreement must submitted to USAC for approval with or prior to the submission of FCC Form 461. The agreement should clearly identify the party(ies) responsible for repayment if USAC is required, at a later date, to recover disbursements to the consortium due to violations of program rules.

(f) Form 461—Request for Services (Competitive Bidding). All HCPs, unless their funding request is subject to a competitive bidding exemption, must submit a request for services (new Form 461 and associated documents) for posting by USAC, wait at least 28 days before selecting a service provider, and select the most cost-effective bid. On FCC Form 461, applicants will provide basic information regarding the HCP(s) on the application (including contact information for potential bidders), a brief description of the desired services, and evaluation criteria for bids. Each applicant must also certify that (1) it is authorized to submit the request and that all statements of fact in the application are true to the best of the signatory's knowledge; (2) it has followed any applicable state or local procurement rules; (3) the supported services and/or equipment will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value; (4) the HCP or consortium satisfies all program requirements and will abide by all such requirements; and (5) all statements of facts contained therein are true to the best of their knowledge, information, and belief, and that under federal law, persons willfully making false statements on the form can be punished by fine, forfeiture, or imprisonment.

(g) Form 461 Attachment—Network Planning for Consortia. Consortium applicants must also submit a narrative attachment with FCC Form 461 that includes: (1) Goals and objectives of the proposed network; (2) strategy for aggregating the specific needs of HCPs (including providers that serve rural areas) within a state or region; (3) strategy for leveraging existing technology to adopt the most efficient and cost effective means of connecting

those providers; (4) how the broadband services will be used to improve or provide health care delivery; (5) any previous experience in developing and managing health IT (including telemedicine) programs; and (6) a project management plan outlining the project's leadership and management structure, and a work plan, schedule, and budget.

(h) Form 461 Attachment—Request for Proposals (RFP). Submission of a separate RFP document with Form 461 is required for (1) applicants who are required to issue an RFP under applicable state, Tribal, or local procurement rules or regulations; (2) consortium applications that seek more than $100,000 in program support in a funding year; and (3) consortium applications that seek support for infrastructure (i.e. HCP-owned facilities) as well as services. In addition, any applicant is free to submit an RFP to USAC for posting. All applicants who utilize an RFP in conjunction with their competitive bidding process must submit the RFP to USAC for posting. RFPs must provide sufficient information to enable an effective competitive bidding process, including describing the HCP's service needs; specify the period during which bids will be accepted; and include the scoring criteria that will be used to evaluate bids for cost-effectiveness. In addition, certain additional requirements apply to RFPs if the applicant seeks support for long-term capital investments (such as HCP-constructed infrastructure or fiber indefeasible rights-of-use); dark fiber; services or equipment that include an ineligible component; or HCP-owned and constructed network facilities.

(i) FCC Form 462—Request for Funding. Once a service provider is selected, applicants will submit a ''Funding Request'' on FCC Form 462 (and supporting documentation) to provide information about the services and service providers (vendors) selected and certify that the services were the most cost-effective offers received. FCC Form 462 is the means by which an applicant identifies the service(s), rates, service provider(s), and date(s) of service provider selection. Applicants will also certify on FCC Form 462 that: (1) The person signing the application is authorized to submit the application on behalf of the applicant, and has examined the form and all attachments, and to the best of his or her knowledge, information, and belief, all statements of fact contained therein are true; (2) each service provider selected is, to the best of the applicant's knowledge, information, and belief, the most cost-effective service provider available, as defined in the Commission's rules; (3) all Healthcare Connect Fund support will be used only for the eligible health care purposes, as described in this Order and consistent with the Act and the Commission's rules; (4) the applicant is not requesting support for the same service from both the Healthcare Connect Fund and from other RHC programs; (5) the applicant satisfies all of the requirements under section 254 of the Act and applicable Commission rules, and understands that any letter from USAC that erroneously commits funds for the benefit of the applicant may be subject to rescission; (6) the applicant has reviewed all applicable requirements for the program and will comply with those requirements; and (7) the applicant will maintain complete billing records for the service for five years (and for long-term capital investments, for five years after the end of the useful life of the facility).

(j) FCC Form 462 Attachment—Contracts or Similar Documentation. All applicants must submit a contract or other documentation that clearly identifies (1) the vendor(s) selected and the HCP(s) who will receive the services; (2) the service, bandwidth, and costs for which support is being requested; (3) the term of the service agreement(s) if applicable (*i.e.* if services are not being provided on a month-to-month basis).

(k) FCC Form 462 Attachment—Cost Allocation Method for Ineligible Entities or Components. Applicants who seek to include ineligible entities within a consortium, or to obtain support for services or equipment that include both eligible and ineligible components, should submit a written description of their allocation method(s) to USAC with their funding requests. If ineligible entities participate in a network, the allocation method must be memorialized in writing, such as a formal agreement among network members, a master services contract, or for smaller consortia, a letter signed and dated by all (or each) ineligible entity and the Consortium Leader. Applicants should also submit with their funding requests any agreements that memorialize cost-sharing arrangements with ineligible entities.

(l) FCC Form 462 Attachment—Competitive Bidding Documents. Applicants must submit documentation to support their certifications that they have selected the most cost-effective option. Relevant documentation includes a copy of each bid received (winning, losing, and disqualified), the bid evaluation criteria, and any other related documents, such as bid evaluation sheets; a list of people who evaluated bids (along with their title/role/relationship to the applicant organization); memos, board minutes, or similar documents related to the vendor selection/award; copies of notices to winners; and any correspondence with service providers during the bidding/evaluation/award phase of the process. If the application is exempt from competitive bidding, the applicant should submit sufficient documentation to allow USAC to verify that the applicant is eligible for the exemption.

(m) FCC Form 462 Attachment—Updated Network Planning for Consortia. Consortium applicants should submit any revisions to the project management plan, work plan, schedule, and budget previously submitted with the Request for Services (Form 461). If not previously provided with the project management plan, applicants should also provide (or update) a narrative description of how the network will be managed, including all administrative aspects of the network (including but not limited to invoicing, contractual matters, and network operations.) If the consortium is required to provide a sustainability plan (see below), the revised budget should include the budgetary factors discussed in the sustainability plan requirements.

(n) FCC Form 462 Attachment—List of Participating HCPs and Relevant Information. Consortium applicants will be required to provide electronically (via a spreadsheet or similar method) a list of the participating HCPs (both those eligible for support and those ineligible) and all of their relevant information, including eligible (and ineligible, if applicable) cost information for each participating HCP.

(o) FCC Form 462 Attachment—Evidence of Viable Source for 35 Percent Contribution. All consortium applicants must submit, with their funding requests, evidence of a viable source for their 35 percent contribution.

(p) FCC Form 462 Attachment—Sustainability Plans for Applicants Requesting Support for Long-Term Capital Expenses. Consortia who seek funding to construct and own their own facilities or obtain indefeasible rights of use (IRUs) or capital lease interests must submit a sustainability plan with their funding requests demonstrating how they intend to maintain and operate the facilities that are supported over the relevant time period. Although participants are free to include additional information to demonstrate a project's sustainability, the sustainability plan must, at a minimum, address the following points: (1)

Projected sustainability period; (2) principal factors considered to demonstrate sustainability; (3) terms of membership in the network; ownership structure for the network; sources of future support; management structure of the network. Applicants will be required to later submit revised sustainability plans if there is a material change in sources of future support or management, a change that would impact projected income or expenses by the greater of 20 percent or $100,000 from the previous submission, or if the applicant submits a funding request based on a new Form 461 (i.e., a new competitively bid contract).

(q) FCC Form 463—Invoicing. Service providers will bill HCPs directly for services that they have provided. Upon receipt of a service provider's bill, the HCP will create and approve an invoice for USAC on FCC Form 463 for the services it has received. On the invoice, (1) the HCP or Consortium Leader must certify to USAC that it has paid its 35 percent contribution directly to the service provider; and (2) the HCP and service provider must certify that they have reviewed the invoice and that it is accurate. USAC will pay the service provider directly based on the invoice. For consortia, the Consortium Leader is responsible for the invoicing process, including certifying that the participant contribution has been paid and that the invoice is accurate.

(r) Extension Request for Lighting Fiber. Fiber must be lit during the funding year for non-recurring charges associated with such fiber to be eligible. Applicants may receive up to a one-year extension to light fiber, however, if they provide documentation to USAC that construction was unavoidably delayed due to weather or other reasons.

(s) Recordkeeping. Program participants and vendors in the Healthcare Connect Fund must maintain required documentation for five years after the service has been delivered (or after the end of the useful life of a facility for which the participant has received support to make a long-term capital investment) and produce these records upon request of the Commission, any auditor appointed by the Administrator or the Commission, or of any other state or federal agency with jurisdiction. For a consortium, the Consortium Leader is responsible for compliance with the Commission's recordkeeping requirements.

(t) Annual Reporting Requirement for Consortium Participants. Consortium participants in the Healthcare Connect Fund will be required to submit annual reports to assist the Commission in measuring progress toward the three program goals for the Healthcare Connect Fund. Additionally, applicants may request support for upfront, non-recurring charges for long-term capital investments, such as constructing their own network facilities, or obtaining an indefeasible right-of-use (IRU) or prepaid lease interest in existing network facilities such as dark fiber. In such a case, the applicant may be obtaining access to facilities that have a useful life extending many years after program funds have been disbursed, but would not need to submit requests for funding on an annual basis once access to the facility is obtained. In order to ensure that such facilities continue to be used for eligible purposes throughout their useful life, the Commission will require such applicants to submit, during the useful life of the facility, additional information identifying the health care providers utilizing the network, and the services they are receiving from the supported network. Much of the data to be collected from participants in the Healthcare Connect Fund, as discussed in the Healthcare Connect Order, is already collected through FCC Forms 460, 461, 462, and 463. In order to minimize the burden posed by the annual report, the Commission and USAC will develop a simple and streamlined, electronic reporting system that integrates data collected through the application process, thereby eliminating the need to resubmit (in the annual report) any information that has previously been provided.

(2) SKILLED NURSING FACILITIES PILOT: Also in December 2012, the Commission adopted the Skilled Nursing Facilities Pilot (SNF Pilot) to test how to support broadband connections for skilled nursing facilities. The SNF Pilot will focus on how the Commission can best utilize program support to assist skilled nursing facilities that are using broadband connectivity to work with eligible health care providers through the use of electronic health records, telemedicine, and other broadband-enabled health care applications. The Commission intends to utilize Healthcare Connect Fund forms for the Skilled Nursing Facilities Pilot Program (*e.g.* to register skilled nursing facility locations with USAC, invoicing, etc.) to the extent feasible, except with respect to the application and reporting requirements described below.

The following new information collection requirements are associated with the SNF Pilot:

(u) Application for Skilled Nursing Facilities Pilot. Participants in the SNF Pilot will be selected using a competitive process. It is anticipated that applications for the SNF Pilot will likely be in a narrative format, and may include the following elements: (1) Project description, budget and goals, including technologies to be used and patient population(s) to be targeted; (2) explanation of the need for broadband connectivity and anticipated health IT uses of supported connectivity; (3) anticipated health care cost savings and/or improvements in the quality of health care enabled through use of broadband-enabled health IT; (4) a detailed explanation of the design, data gathering and evaluation component of the project; (5) a description of the sites to be connected and the network design; and (6) certifications to ensure compliance with program requirements.

The Commission will be developing scoring criteria for applications for the SNF Pilot with the input of relevant stakeholders (such as the U.S. Department of Health and Human Services (HHS)), consistent with the program goals for the Healthcare Connect Fund. Once the scoring criteria are developed, the Commission will release a Public Notice announcing the application procedures and deadlines. Applicants will include in their applications a demonstration of how they satisfy the scoring criteria.

(v) Reporting Requirements for Skilled Nursing Facilities Pilot Participants. The SNF Pilot Program will seek to collect data on a number of variables related to the broadband connections supported and their health care uses. Applicants must commit to robust data gathering as well as analysis and sharing of the data and to submitting an annual report. Applicants will be expected to explain what types of data they intend to gather and how they intend to gather that data in their applications. At the conclusion of the Pilot, applicants should be prepared to demonstrate with objective, observable metrics the health care cost savings and/or improved quality of patient care that have been realized through greater use of broadband to provide telemedicine to treat the residents of SNFs. The Commission plans to make this data public for the benefit of all interested parties, including third parties that may use such information for their own studies and observations.

(3) REVISIONS TO 2006 PILOT PROGRAM REPORTING REQUIREMENTS: Participants in the 2006 Pilot Program are currently required to submit to USAC and the Commission quarterly reports containing data listed in the Rural Health Care Pilot Program Selection Order, Appendix D.

(w) Revised Reporting Requirements for 2006 Pilot Program Participants. In the Healthcare Connect Fund Order, the Commission modified the 2006 Pilot Program reporting requirements to: (1) Extend through and include the last funding year in which a Pilot project received Pilot support, or, for Pilot Projects that received large upfront payments, for the life of the supported facility; (2) file annually instead of quarterly, filing their first annual report on September 30, 2013 and submitting the report to USAC, rather than USAC and the Commission; and (3) conform their reports with the Healthcare Connect Fund annual reports for consortia, where participants will be required to submit annual reports to assist the Commission in measuring progress toward the three program goals: increase access to broadband for health care providers; develop and deploy of broadband healthcare networks; and measure the cost-effectiveness of the program.

Previously Approved Collection Requirements: The Telecommunications, Internet Access, and 2006 Pilot Programs use forms and instructions that have been previously approved by OMB as part of this information collection. The Commission is seeking renewal of these forms and instructions for a new three-year period.

All eligible health care providers applying for discounts under the Telecommunications, Internet Access, and 2006 Pilot Programs must file FCC Forms 465, 466 and/or 466–A, and 467. Eligible health care providers file FCC Form 465 with USAC to make a bona fide request for supported services. Next, after a period of not less than 28-days after filing FCC Form 465, a health care provider that has selected a vendor submits FCC Form 466 and/or 466–A to indicate the type(s) and cost(s) of services ordered, information about the service provider, and the terms of the service agreement. Eligible health care providers must also certify on the applicable FCC Forms 466 and 466–A that the health care provider has selected the most cost-effective method of providing the selected service(s). The last form eligible health care providers submit is FCC Form 467, which is used by the entity to notify USAC that the service provider has begun providing supported services. As part of this information collection, OMB has also previously approved certain templates, samples, and spreadsheets provided to program participants to facilitate the reporting and record keeping requirements under this collection.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–07478 Filed 3–29–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Telemarketing Sales Rule Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through August 31, 2016, the current PRA clearance for information collection requirements in its Telemarketing Sales Rule (''TSR''). That clearance expires on August 31, 2013.

DATES: Comments must be submitted on or before May 31, 2013.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''TSR PRA Comment, FTC File No. P094400'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/tsrrulepra* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements for the Franchise Rule should be addressed to Craig Tregillus, Staff Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H–238, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2970.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the TSR, 16 CFR part 310 (OMB Control Number 3084–0097).

The TSR, 16 CFR 310, implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108 (''Telemarketing Act''), as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (''USA PATRIOT Act''), Public Law 107056 (Oct. 25, 2001). The Act seeks to prevent deceptive or abusive telemarketing practices in telemarketing, which, pursuant to the USA PATRIOT Act, includes calls made to solicit charitable contributions by third-party telemarketers. The Telemarketing Act mandated certain disclosures by telemarketers, and directed the Commission to include recordkeeping requirements in promulgating a rule to prohibit such practices. As required by the Telemarketing Act, the TSR mandates certain disclosures for telephone sales and requires telemarketers to retain certain records regarding advertising, sales, and employees. The required disclosures provide consumers with information necessary to make informed purchasing decisions. The required records are to be made available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule. Required records may also yield information helpful to measuring and redressing consumer injury stemming from Rule violations.

In 2003, the Commission amended the TSR to include certain new disclosure requirements and to expand the Rule in other ways. *See* 68 FR 4580 (Jan. 29, 2003). Specifically, the Rule was amended to cover upsells [1] (not only in outbound calls, but also in inbound calls) and additional transactions were included under the Rule's purview. For example, the Rule was extended to the solicitation by telephone of charitable donations by third-party telemarketers

[1] An ''upsell'' is the solicitation in a single telephone call of the purchase of goods or services after an initial transaction occurs. The solicitation may be made by or on behalf of a seller different from the seller in the initial transaction, regardless of whether the initial transaction and the subsequent solicitation are made by the same telemarketer (''external upsell''). Or, it may be made by or on behalf of the same seller as in the initial transaction, regardless of whether the initial transaction and subsequent solicitation are made by the same telemarketer (''internal upsell'').

in response to the mandate of the USA PATRIOT Act. Finally, the amendments established the National Do Not Call Registry (''Registry''), permitting consumers to register, via either a toll-free telephone number or the Internet, their preference not to receive certain telemarketing calls.[2] Accordingly, under the TSR, most sellers and telemarketers are required to refrain from calling consumers who have placed their numbers on the Registry.[3] Moreover, sellers and telemarketers must periodically access the Registry to remove from their telemarketing lists the telephone numbers of those consumers who have registered.[4]

In 2008, the Commission promulgated amendments to the TSR regarding prerecorded calls, 16 CFR 310.4(b)(1)(v), and call abandonment rate calculations, 16 CFR 310.4(b)(4)(i).[5] The amendment regarding prerecorded calls added certain information collection requirements.[6] Specifically, the amendment expressly authorized sellers and telemarketers to place outbound prerecorded telemarketing calls to consumers only if: (1) The seller has obtained written agreements from those consumers to receive prerecorded telemarketing calls after a clear and conspicuous disclosure of the purpose of the agreement; and (2) the call discloses and provides an automated telephone keypress or voice-activated opt-out mechanism at the outset of the call.[7] Although the opt-out mechanism requirement took effect on December 1, 2008, the written agreement requirement did not take effect until September 1, 2009.[8]

In 2010, the Commission published additional amendments taking effect that year to require specific new disclosures in the sale of a ''debt relief service,'' as that term is defined in Section 310.2(m) to include for-profit credit counseling services, debt settlement, and debt negotiation services. The amendments result in PRA burden for all covered entities—both new and existing respondents—that engage in telemarketing of these services. The amendments, among other things: (1) Applied the TSR to *inbound* telemarketing of debt relief services;[9] and (2) added new required disclosures and prohibited representations to curb deceptive practices prevalent in the telemarketing of debt relief services.

Burden Statement

Estimated Annual Hours Burden: 1,319,984 hours.

The estimated burden for recordkeeping is 15,610 hours for all industry members affected by the Rule. The estimated burden for the disclosures that the Rule requires for both the live telemarketing call provisions of the TSR and those regarding prerecorded calls is 1,304,374 hours for all affected industry members. Thus, the total PRA burden is 1,319,984 hours. These estimates are explained below.

Number of Respondents: As a preliminary matter, only telemarketers and sellers, not telefunders (third-party telemarketers soliciting contributions on behalf of charities), are subject to the Registry provisions of the Rule, and only sellers, not telemarketers or telefunders, are subject to the new express agreement obligations attributable to the prerecorded call disclosure requirements.[10] The Registry data does not separately account for telefunders; they are a subset of the overall number of telemarketing entities known to access the Registry for any given year.[11]

In calendar year 2012, 28,601 telemarketing entities accessed the Registry. Of these entities, 641 were ''exempt'' entities obtaining access to data.[12] By definition, none of the exempt entities are subject to the TSR. In addition, 22,321 sellers and 5,639 telemarketers accessed the Registry. Of those, however, 15,854 sellers and 3,996 telemarketers with independent access to the Registry obtained data for just one state. Staff assumes that these entities are operating solely intrastate, and thus would not be subject to the TSR.[13] Applying this Registry data, staff estimates that 8,110 telemarketing entities (28,601—641—15,854—3,996) are currently subject to the TSR, of which 6,467 (22,321—15,854) are sellers and 1,643 (5,639—3,996) are telemarketers.[14]

Recordkeeping Hours

Staff estimates that the above-noted 8,110 telemarketing entities subject to the Rule each require approximately one hour per year to file and store records required by the TSR for an annual total of 8,110 burden hours. The Commission staff also estimates that 75 new entrants per year would need to spend 100 hours each developing a recordkeeping system that complies with the TSR for an annual total of 7,500 burden hours.[15] These figures, based on prior estimates, are consistent with staff's current knowledge of the industry. Thus, the total estimated annual recordkeeping burden for new and existing telemarketing entities, including those offering debt relief services and making prerecorded calls,[16] is 15,610 hours.

[2] 68 FR 4580 (Jan. 29, 2003). The Registry applies to any plan, program, or campaign to sell goods or services through interstate phone calls. This includes telemarketers who solicit consumers, often on behalf of third-party sellers. It also includes sellers who provide, offer to provide, or arrange to provide goods or services to consumers in exchange for payment. It does not limit calls by political organizations, charities, or telephone surveyors.

[3] 16 CFR 310.4(b)(1)(iii)(B).

[4] 16 CFR 310.4(b)(3)(iv). Effective January 1, 2005, the Commission amended the TSR to require telemarketers to access the Registry at least once every 31 days. *See* 69 FR 16368 (Mar. 29, 2004).

[5] *See* 73 FR 51164 (Aug. 29, 2008).

[6] By contrast, the revised standard for measuring the call abandonment rate did not impose any new or affect any existing reporting, recordkeeping or third-party disclosure requirements within the meaning of the PRA. That amendment relaxed the prior requirement that the abandonment rate be calculated on a ''per day per campaign'' basis by permitting, but not requiring, its calculation over a 30-day period, as industry requested.

[7] The prerecorded call amendment provided the first ever explicit authorization in the TSR for sellers and telemarketers to place prerecorded telemarketing calls to consumers. The pre-amendment call abandonment prohibition of the TSR implicitly barred such calls by requiring that all telemarketing calls be connected to a sales representative, rather than a recording, within two seconds of the completed greeting of the person who answers. The requirements apply not only to prerecorded calls that are answered by a consumer, but also to prerecorded messages left on consumers' answering machines or voicemail services.

[8] *See* 73 FR 51164, 51166.

[9] While the TSR already covered outbound calls by debt relief service providers, the amendments also brought inbound debt-relief calls within the TSR's reach.

[10] Telemarketers and telefunders must comply, however, with the abandoned call provisions of the TSR and the opt-out requirements of the 2008 amendments.

[11] For the sake of simplicity and to err conservatively, FTC staff's burden estimates for provisions less likely to be applicable to telefunders (e.g., prize promotion disclosure obligations for outbound live calls, under 16 CFR 310.4(d)) will not be reduced by a separate estimate for the subset of telemarketers that are telefunders. Conversely, estimates of the number of new-entrant telemarketers will incorporate new-entrant telefunders.

[12] An exempt entity is one that, although not subject to the TSR, voluntarily chooses to scrub its calling lists against the data in the Registry.

[13] These entities would nonetheless likely be subject to the Federal Communications Commission's (''FCC'') Telephone Consumer Protection Act regulations, including the requirement that entities engaged in intrastate telephone solicitations access the Registry.

[14] For purposes of these calculations, staff assumes that telemarketers making prerecorded calls download telephone numbers listed on the Registry, rather than conduct online searches, because the latter may consume much more time. Other telemarketers not placing the high-volume of automated prerecorded calls may elect to search online, rather than to download.

[15] This figure includes new entrants making prerecorded calls and offering debt relief services, based on prior estimates that neither would require more than 100 hours to comply with those requirements. *See* 74 FR 11952, 11954 n.17 (Mar. 20, 2009); 75 FR 48458, 48504 (Aug. 10, 2010).

[16] The recordkeeping requirements for prerecorded calls are *de minimis,* and are subsumed within the PRA estimates above for existing and new telemarketing entities. As in its prior estimates,

Disclosure Hours

Staff believes that in the ordinary course of business a substantial majority of sellers and telemarketers make the disclosures the Rule requires because to do so constitutes good business practice. To the extent this is so, the time and financial resources needed to comply with disclosure requirements do not constitute ''burden.'' 16 CFR 1320.3(b)(2). Moreover, many state laws require the same or similar disclosures as the Rule mandates. Thus, the disclosure hours burden attributable solely to the Rule is far less than the total number of hours associated with the disclosures overall. As when the FTC last sought 3-year OMB clearance for this Rule, staff estimates that most of the disclosures the Rule requires would be made in at least 75 percent of telemarketing calls even absent the Rule.[17] Accordingly, staff has continued to estimate that the hours burden for most of the Rule's disclosure requirements is 25 percent of the total hours associated with disclosures of the type the TSR requires.

Based on previous assumptions, staff estimates that of the 8,110 telemarketing entities noted above, 3,726 conduct inbound telemarketing.[18] Inbound calls from consumers in response to direct mail solicitations that make certain required disclosures are exempt from the TSR.[19] Although such calls are exempt from the Rule, the Commission believes it is likely that industry members choosing to make the requisite disclosures in direct mail solicitation may do so in an effort to qualify for the exemption. Thus, Commission staff believes it is appropriate to include in the relevant burden hour calculation both the burden for compliance with the Rule's oral disclosures and the burden incurred by entities that make written disclosures in order to qualify for the inbound direct mail exemption. Accordingly, staff estimates that, of the 3,726 entities that conduct inbound telemarketing, approximately one-third (1,242) will choose to incorporate written disclosures in their direct mail solicitations that exempt them from complying with the Rule.[20]

Staff necessarily has made additional assumptions in estimating burden. From the total volume of outbound and inbound calls, staff first calculated disclosure burden for initial transactions that resulted in sales, derived from external data and/or estimates drawn from a range of calendar years (2001–2010). Staff recognizes that disclosure burdens may still be incurred regardless of whether or not a call results in a sale. Conversely, a substantial percentage of outbound calls result in consumers hanging up before the seller or telemarketer makes the required disclosure(s). However, because the requirements in § 310.3(a)(1) for certain disclosures before a consumer pays for a telemarketing purchase apply only to sales, early call cessation (i.e., consumers hanging up pre-disclosure or before full disclosure) is excluded from staff's burden estimates for § 310.3(a)(1).

For transactions in which a sale is not a precursor to a required disclosure, *i.e.,* the upfront disclosures required in all outbound telemarketing calls and outbound or inbound ''upsell'' calls by § 310.4(d), staff has calculated burden for initial transactions based on estimates of the total volume of outbound and inbound calls, discounted for anticipated early hang-ups. For transactions in which a sale is a precursor to required disclosure, *i.e.,* § 310.3(a)(1), the calculation is based on the volume of direct sales.

Based on the most recently available applicable industry data and further FTC extrapolations, staff estimates that 2.4 billion outbound telemarketing calls are subject to FTC jurisdiction, that 484 million of these calls result in direct sales,[21] and that there are 1.9 billion inbound calls that result in direct sales. Staff retains its longstanding estimate that, in a telemarketing call involving the sale of goods or services, it takes 7 seconds[22] for telemarketers to recite the required pre-sale disclosures plus 3 additional seconds[23] to disclose the information required in the case of an upsell. Staff also retains its longstanding estimates that at least 60 percent of sales calls result in ''hang-ups'' before the telemarketer can make all the required disclosures and that ''hang-up'' calls allow for only 2 seconds of disclosures.[24]

Staff bases all ensuing upsell calculations on the volume of additional sales after an initial sale, with the assumption that a consumer is unlikely to be predisposed to an upsell if he or she rejects an initial offer—whether through an outbound or an inbound call. Using industry information, staff assumes an upsell conversion rate of 40% for inbound calls as well as outbound calls.[25] Moreover, staff assumes that consumers who agree to an upsell will not terminate an upsell before the seller or telemarketer makes the full required disclosures.

Based on the above inputs and assumptions, staff estimates that the total time associated with these pre-sale disclosure requirements is 865,333 hours per year: (2.4 billion outbound calls × 40% lasting the duration × 7 seconds of full pre-sale disclosures = 1,866,667) + (2.4 billion outbound calls × 60% terminated after 2 seconds of disclosures = 800,000) + (484 million outbound calls resulting in direct sales × 40% upsell conversions × 3 seconds of related disclosures = 161,333) + (1.9 billion inbound calls × 40% upsell

staff continues to believe that any ongoing incremental burden on sellers to create and retain electronic records of written agreements by new customers to receive prerecorded calls should not be material since the agreements may be obtained and recorded electronically pursuant to the Electronic Signatures In Global and National Commerce Act (commonly, ''E-SIGN''). Although telemarketers (and telefunders) that place prerecorded calls on behalf of sellers or charities must capture and transmit to the seller any requests they receive to place a consumer's telephone number on the seller's entity-specific do-not-call list, this obligation extends both to live and prerecorded telemarketing calls, and is also subsumed within the PRA estimates above.

[17] 75 FR 48504; 74 FR 11954.

[18] While staff does not have information directly stating the number of inbound telemarketers, data last appearing in the DMA 2009 Statistical Fact Book (February 2009), p. 18, shows that 17% of all direct marketing in 2008 was by inbound telemarketing and 20% was by outbound telemarketing. Accordingly, based on such relative weighting, staff estimates that the number of inbound telemarketers is approximately 3,726 ((8,110 × 17) ÷ (17 + 20)).

[19] Some exceptions to this broad exemption exist, including solicitations regarding prize promotions, investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule or Business Opportunity Rule, advertisements involving goods or services described in 310.3(a)(1)(vi), advertisements involving goods or services described in 310.4(a)(2)–(4); and any instances of upselling included in such telephone calls.

[20] Since only ''sellers,'' and not ''telemarketers,'' would make the written disclosures, and this estimate includes both, it conservatively overstates the number of entities subject to the requirement.

[21] For staff's PRA burden calculations, only direct sales orders by telephone are relevant. That is, sales generated through leads or customer traffic are excluded from these calculations because such sales are not subject to the TSR's recordkeeping and disclosure provisions. The direct sales transactions total of 484 million is based on an estimated 1.6 billion sales transactions from outbound calls being subject to FTC jurisdiction reduced by an estimated 30 percent attributable to direct orders. This percentage estimate is derived from the most recent available direct sales data for telephone marketing to consumers. *See* DMA Statistical Fact Book (2001), p. 301.

[22] *See, e.g.,* 60 FR 32682, 32683 (June 23, 1995); 63 FR 40713, 40714 (July 30, 1998); 66 FR 33701, 33702 (June 25, 2001); 71 FR 28698, 28700 (May 17, 2006); 74 FR 11952, 11955 (Mar. 20, 2009).

[23] 71 FR 3302, 3304 (Jan. 20, 2006); 71 FR 28698, 28700.

[24] *See, e.g.,* 60 FR 32683.

[25] This assumption originated with industry response to the Commission's 2003 Final Amended TSR. *See* 68 FR 4580, 4597 n.183 (Jan. 29, 2003). Although it was posited specifically regarding inbound calls, FTC staff will continue to apply this assumption to outbound calls as well, barring the receipt of any information to the contrary.

conversions × 3 seconds = 633,333)] × an estimated 25% of affected entities not already making such disclosures independent of the TSR = 865,333 hours.

The TSR also requires several general sales disclosures in telemarketing calls before the customer pays for goods or services.[26] These disclosures include the total costs of the offered goods or services, all material restrictions, and all material terms and conditions of the seller's refund, cancellation, exchange, or repurchase policies (if a representation about such a policy is a part of the sales offer).

Staff estimates that the general sales disclosures for outbound calls require 377,949 hours annually. This figure includes the burden for written disclosures (1,242 inbound telemarketing entities estimated to use direct mail [27] × 10 hours [28] per year × 25% burden = 3,105 hours), as well as the figure for oral disclosures [(484 million outbound calls × 8 seconds × 25% burden = 268,889 hours) + (484 million outbound calls × 40% (upsell conversion) × 20% sales conversion × 8 seconds × 25% burden = 21,511 hours) + (1.9 billion inbound calls × 40% upsell conversion × 20% sales conversion × 8 seconds × 25% burden = 84,444 hours)] = 377,949 hours.[29]

To estimate the time required to provide the general sales disclosures for calls offering debt relief services, staff employs different assumptions and calculations set forth when the debt relief amendments were issued.[30] Employing that analysis, as modified in response to a public comment to account for inbound debt relief sales,[31] staff continues to assume that outbound calls to sell and inbound calls to buy debt relief services are made only to consumers who are delinquent on one or more credit cards.[32] For simplicity, and lacking specific information or prior comment to the contrary, staff further assumes that each such consumer will receive one outbound call and place one inbound call for these services.

To estimate the number of consumers who are delinquent on one or more credit cards, staff assumes that couples constitute a single decision-making unit, as do single adults (widowed, divorced, separated, never married) within each household. According to the most current U.S. Census Bureau data available, there are 157,356,000 decision-making units.[33] Of these, 113,611,032 have one or more credit cards,[34] and there are 3,101,581 decision-making units with at least one delinquent credit card account.[35]

Accordingly, since reciting the general sales disclosures takes eight seconds, staff estimates that the general sales disclosure burden for inbound debt relief calls is 1,723 hours (3,101,581 inbound debt relief calls × 8 seconds × 25% burden ÷ 3,600).

The general sales disclosures required by § 310.3(a)(1)(i)–(iii) must also be made by sellers and telemarketers for some inbound calls that are excluded from the general media and direct mail exemptions from the TSR for inbound calls;[36] namely, calls in response to ads for investment opportunities, certain business opportunities,[37] credit card loss protection (''CCLP''),[38] credit repair,[39] loss recovery services,[40] and advance fee loans.[41]

Staff's estimates for each of these types of inbound calls begins by comparing the number of complaints reported to the FTC's Consumer Sentinel system in the most recent year to the total number of reported fraud complaints for the year. The resulting percentage of total fraud complaints must be adjusted to reflect the fact that only a relatively small percentage of telemarketing calls are fraudulent. To extrapolate the percentage of fraudulent telemarketing calls, staff divides a Congressional estimate of annual consumer injury from telemarketing fraud ($40 billion) [42] by the most recent available total of consumer and business-to-business telemarketing sales ($332.4 billion in 2010),[43] or 12%. The two percentages are then multiplied together to determine the percentage of the 1.9 billion annual inbound telemarketing calls represented by each type of fraud complaint.

Thus, for the 7,117 Sentinel complaints about investment opportunities in 2012,[44] or 0.7% of the 1,074,937 total fraud complaints reported,[45] the general sales disclosure burden is 4,222 hours (1.9 billion inbound calls × 0.001 [0.007 × 0.12] × 8 seconds ÷ 3,600). Likewise, the burden for business opportunity sales (17,231 including complaints for multi-level marketing/pyramids/chain letters) is 8,444 hours (1.9 billion × 0.002 [0.016 × 0.12] × 8 seconds ÷ 3,600); [46] for advance fee loan sales (38,885 complaints), 16,888 hours (1.9 billion × 0.004 [0.036 × 0.12] × 8 seconds ÷ 3,600); for credit repair sales (2,094

[26] 16 CFR 310.3(a)(1)(i)–(iii).

[27] *See supra* text preceding note 20.

[28] FTC staff believes a typical firm will spend approximately 10 hours per year engaged in activities ensuring compliance with this provision of the Rule; this, too, has been stated in prior FTC notices inviting comment on PRA estimates. No comments were received, and staff believes this estimate remains reasonable.

[29] The percentage and unit of time measurements are FTC staff estimates.

[30] 75 FR 48504–05.

[31] Debt relief sales in outbound calls have always been subject to the general sales disclosure requirements, and are subsumed in the outbound general sales disclosure totals.

[32] By extension upsells on these initial calls would not be applicable. Moreover, staff believes that few, if any, upsells on initial outbound and inbound calls would be for debt relief.

[33] U.S. Census Bureau, *Income, Poverty, and Health Insurance in the United States: 2011,* (September 2012), p. 6, *available at http://www.census.gov/prod/2012pubs/p60-243.pdf* (reflecting 119,927,000 households in 2010); U.S. Census Bureau, *Sharing a Household: Household Composition and Economic Well Being: 2007–2010* (June 2012), p. 4, *available at www.census.gov/hhes/www/poverty/publications/P60-242.pdf* (reflecting 37,429,000 adults living with a householder that is neither a spouse nor cohabiting partner in 2010).

[34] The estimate of consumers with one or more credit cards is derived by multiplying the estimated decision making units (157,356,000) by the percentage of consumers with one or more credit cards (72.2%). Federal Reserve Bank of Boston, Consumer Payments Research Center, *The 2009 Survey of Consumer Payment Choice* (April 2011), p. 8, *available at www.bostonfed.org/economic/ppdp/2011/ppdp1101.pdf.*

[35] The estimate of consumers with a delinquent account is derived by multiplying the estimate of consumers with one or more credit cards (113,611,032) by the delinquency rate for credit cards (2.73%). Board of Governors of the Federal Reserve System, *Charge Off and Delinquency Rates on Loans and Leases at Commercial Banks, available at http://www.federalreserve.gov/releases/chargeoff/delallsa.htm* (reporting a 2.73% delinquency rate for credit cards for the fourth quarter of 2012).

[36] 16 CFR 310.6(b)(5) (general media) and 310.6(b)(6) (direct mail).

[37] Staff has previously accounted only for the business opportunity exclusion, which so significantly overstated the number of complaints not covered by the Franchise Rule or Business Opportunity Rule that it served as a proxy for all the other exclusions. *See infra* note 46. With the recent burgeoning increase in advance fee loan complaints, that may no longer be the case, and staff accordingly now accounts for all the exclusions, even though some may seem trivial.

[38] 16 CFR 310.3(a)(1)(vi).

[39] 16 CFR 310.4(a)(2).

[40] 16 CFR 310.4(a)(3).

[41] 16 CFR 310.4(a)(4).

[42] The FBI believes that this estimate now overstates telemarketing fraud losses as a result of its investigations and closings of once massive telemarketing boiler room operations. *See* FBI, *A Byte Out of History: Turning the Tables on Telemarketing Fraud* (Dec. 8, 2010), *available at www.fbi.gov/news/stories/2010/december/telemarketing_120810/telemarketing_120810.*

[43] DMA 2010 Statistical Fact Book (January 2010), p. 5, *available at http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2012.pdf.*

[44] FTC, *Consumer Sentinel Data Book for January–December 2012* (February 2013) (''Sentinel Data''), Appendix B3, p. 83.

[45] Sentinel Data at 7.

[46] Sentinel Data at 7, 80. While this total excludes ''Franchises/Distributorships'' covered by the Franchise Rule and thus not subject to the TSR, the data cannot additionally be segregated to omit ''Work-At-Home'' opportunities now covered by the Business Opportunity Rule and thus also not subject to the TSR. Staff therefore believes this total significantly overstates the opportunities subject to the TSR.

complaints), 844 hours (1.9 billion × 0.0002 [0.002 × 0.12] × 8 seconds ÷ 3,600); and 422 hours for loss recovery services (612 complaints) (1.9 billion × 0.0001 [0.001 × 0.12] × 8 seconds ÷ 3,600). The exemptions therefore add an additional 30,820 hours to the general sales disclosure burden. Altogether, the general sales disclosure burden thus is 410,492 hours (377,949 for outbound sales + 1,723 for debt relief inbound sales + 30,820 for non-exempt inbound sales).

Additional specific disclosures are required if the call involves a prize promotion,[47] the sale of credit card loss protection products,[48] an offer with a negative option feature,[49] or the sale of a debt relief service.[50] Staff estimates that the specific sales disclosures other than for debt relief services will require 23,971 hours annually [(484 million calls × 5% [estimate for outbound calls involving prize promotions] × 3 seconds × 25% burden = 5,042 hours) + (484 million calls × 0.1% [estimate for outbound calls involving CCLP] × 4 seconds × 25% burden = 134 hours) + (484 million calls × 40% upsell conversions × 20% sales conversions × 0.1% [estimate for outbound calls involving CCLP upsells] × 4 seconds × 25% burden = 11 hours) + (1.9 billion inbound calls × 40% upsell conversion × 20% sales conversion × 0.1% [estimate for inbound calls involving CCLP upsells] × 4 seconds × 25% burden = 42 hours) + (484 million calls × 10% [estimate for outbound calls involving negative options] × 4 seconds × 25% burden = 13,444 hours) + (484 million calls × 40% upsell conversion × 20% sales conversions × 10% [estimate for outbound calls involving negative option upsells] × 4 seconds × 25% burden = 1,076 hours) + (1.9 billion inbound calls × 40% upsell conversions × 20% sales conversions × 10% [estimate for inbound calls involving negative option upsells] × 4 seconds × 25% burden = 4,222 hours).

Staff estimates that reciting the debt relief disclosures in each sales call will take ten seconds, and therefore the disclosure burden associated with the debt relief disclosures is 4,308 hours (3,101,581 outbound debt relief calls × 10 seconds × 25% burden = 2,154 hours) + (3,101,581 inbound debt relief calls × 10 seconds × 25% burden = 2,154 hours). Thus, the total specific sales disclosure burden is 28,279 hours annually (23,971 for non-debt-relief calls) + 4,308 (for debt relief calls).

Cumulatively, therefore, the total annual burden for all of the sales disclosures is 438,771 hours (410,492 general + 28,279 specific sales disclosures) or, by rough approximation (allowing that some entities conducting inbound telemarketing will be exempt from oral disclosure if making certain written disclosures), 54 hours annually per firm (438,771 ÷ 8,110).

Finally, any entity that accesses the Registry, regardless whether it is paying for access, must submit minimal identifying information to the operator of the Registry. This basic information includes the name, address, and telephone number of the entity; a contact person for the organization; and information about the manner of payment. The entity also must submit a list of the area codes for which it requests information and certify that it is accessing the Registry solely to comply with the provisions of the TSR. If the entity is accessing the Registry on behalf of other seller or telemarketer clients, it has to submit basic identifying information about those clients, a list of the area codes for which it requests information on their behalf, and a certification that the clients are accessing the Registry solely to comply with the TSR.

As it has since the Commission's initial proposal to implement user fees under the TSR, FTC staff estimates that affected entities will require no more than two minutes for each entity to submit this basic information, and anticipates that each entity will have to submit the information annually.[51] Based on the number of entities accessing the Registry that are subject to the TSR, this requirement will result in 270 burden hours (8,110 entities × 2 minutes per entity). In addition, FTC staff continues to estimate that up to one-half of those entities may need, during the course of their annual period, to submit their basic identifying information more than once in order to obtain additional area codes of data. Thus, this would result in an additional 135 burden hours. Accordingly, accessing the Registry will impose a total burden of approximately 405 hours per year.

Cumulative of the foregoing components, disclosure burden for new and existing telemarketing entities, including those making prerecorded calls,[52] is 1,304,374 hours (865,333 [pre-sale disclosures] + 410,492 [general sales disclosures] + 28,279 [specific sales disclosures] + 270 [Registry access]). Thus, the total recordkeeping and disclosure burden is 1,319,983 hours (15,610 + 1,304,374).

Estimated Annual Labor Cost: $15,593,528.

Estimated Annual Non-Labor Cost: $5,101,246.

Recordkeeping Labor and Non-Labor Costs

1. Labor Costs

Assuming a cumulative burden of 7,500 hours a year to set up compliant recordkeeping systems for new telemarketing entities (75 new entrants/year × 100 hours each), and applying to that a skilled labor rate of $25/hour,[53] labor costs would approximate $187,500 yearly for all new telemarketing entities. As indicated above, staff estimates that existing telemarketing entities require 8,110 hours, cumulatively, to maintain compliance with the TSR's recordkeeping provisions. Applying a clerical wage rate of $14/hour,[54] recordkeeping maintenance for existing telemarketing entities would amount to an annual cost of approximately $113,540. Thus, the estimated labor cost for recordkeeping associated with the TSR for both new and existing telemarketing entities, including prerecorded and debt relief calls, is $301,040.

2. Non-Labor Costs

Staff believes that the capital and start-up costs associated with the TSR's information collection requirements are *de minimis.* The Rule's recordkeeping requirements mandate that companies maintain records, but not in any particular form. While those requirements necessitate that affected entities have a means of storage, industry members should have that already for business purposes

[47] 16 CFR 310.3(a)(1)(iv)–(v).

[48] 16 CFR 310.3(a)(1)(vi).

[49] 16 CFR 310.3(a)(1)(vii).

[50] 16 CFR 310.3(a)(1)(viii).

[51] See 67 FR 37366 (May 29, 2002). The two-minute estimate likely is conservative. The OMB regulation defining ''information'' under the PRA generally excludes disclosures that require persons to provide facts necessary simply to identify themselves, e.g., the respondent, the respondent's address, and a description of the information the respondent seeks in detail sufficient to facilitate the request. See 5 CFR 1320.3(h)(1).

[52] The required opt-out disclosure for all prerecorded calls mandated by the 2008 amendments would not require any material time expenditure, and arguably less time than a pre-existing and now identical FCC disclosure requirement. In any event, because the ''opt-out'' disclosure applies only to prerecorded calls, which are fully automated, no additional manpower hours would be expended in its electronic delivery.

[53] This rounded figure is derived from the mean hourly wage shown for Computer Support Specialists in the U.S. Department of Labor, Bureau of Labor Statistics, *May 2011 National Occupational Employment and Wage Estimates United States, available at www.bls.gov/oes/current/oes_nat.htm#15 0000.*

[54] This rounded figure is derived from the mean hourly wage shown for Office Clerks, General. *See id.*

independent of the Rule. Even if an entity finds it necessary to purchase a storage device, the cost is likely to be minimal, especially when annualized over the item's useful life. The Rule's disclosure requirements require no capital expenditures.

Affected entities may need some storage media such as file folders, computer back-up tapes, or paper in order to comply with the Rule's recordkeeping requirements. Although staff believes that most affected entities would maintain the required records in the ordinary course of business, staff estimates that the approximately 8,110 telemarketing entities subject to the Rule spend an annual amount of $50 each on office supplies as a result of the Rule's recordkeeping requirements, for a total recordkeeping cost burden for both new and existing telemarketing entities, including those making prerecorded calls, of $405,500.

Disclosure Burden Labor & Non-Labor Costs

1. Labor Costs

The estimated annual labor cost for disclosures for all telemarketing entities is $15,652,488. This total is the product of applying an assumed hourly wage rate of $12 [55] to the earlier stated estimate of 1,304,374 hours pertaining to the pre-sale, general and specific disclosures and supplying basic identifying information to the Registry operator.

2. Non-Labor Costs

Oral disclosure estimates, discussed above, and totaling-1,304,374 hours, applied to a retained estimated commercial calling rate of 6 cents per minute ($3.60 per hour), amounts to $4,695,746 in phone-related costs.[56]

Staff believes that the estimated 1,242 inbound telemarketing entities choosing to comply with the Rule through written disclosures incur no additional capital or operating expenses as a result of the Rule's requirements because they are likely to provide written information to prospective customers in the ordinary course of business. Adding the required disclosures to that written information likely requires no supplemental non-labor expenditures.

Thus, cumulatively for both new and existing telemarketing entities, including prerecorded and debt relief calls, total labor costs are $15,593,528 ($301,040 (recordkeeping) + $15,652,488 (disclosure)); total capital and other non-labor costs are $5,101,246 ($405,500 (office supplies) + $4,695,746 (telephone charges)).

Request for Comment: Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 31, 2013. You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 31, 2013. Write ''TSR PRA Comment, FTC File No. P094400'' on your comment.

Your comment—including your name and your state—will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is * * * privileged or confidential'' as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c).[57] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/infofurnishersrulepra,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''TSR PRA Comment, FTC File No. P094400'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *www.ftc.gov* to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 31, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Acting General Counsel.

[FR Doc. 2013–07427 Filed 3–29–13; 8:45 am]

BILLING CODE 6750–01–P

[55] This rounded figure is derived from the mean hourly wage shown for Telemarketers. *See supra* note 56.

[56] Staff believes that remaining non-labor costs would be incurred largely by affected entities in the ordinary course of business and would not materially exceed those ordinary costs.

[57] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Evaluating the Feasibility of a National Surveillance System for Breast, Cervical and Colorectal Cancer Screening, Special Interest Projects (SIP)13–065; and Using Small Media to Increase Breast and Cervical Cancer Population—Based Prevention Activities SIP13–066, Panel A, initial review.

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 aforementioned meeting:

Time and Date: 11:00 a.m.–6:00 p.m., May 7, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of ''Evaluating the Feasibility of a National Surveillance System for Breast, Cervical and Colorectal Cancer Screening, SIP13–065; and Using Small Media to Increase Breast and Cervical Cancer Population—Based Prevention Activities SIP13–066, Panel A,'' initial review.''

Contact Person For More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07440 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Low Dose CT Lung Cancer Screening: Informed Decision Making and Smoking Cessation, Special Interest Project (SIP)13–068; and Tobacco Use Quitline Registries for Continuously Engaging Participants in Cessation, SIP13–073, Panel C, initial review.

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 aforementioned meeting:

Time and Date: 11:00 a.m.–6:00 p.m., May 9, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of ''Low Dose CT Lung Cancer Screening: Informed Decision Making and Smoking Cessation, SIP13–068; and Tobacco Use Quitline Registries for Continuously Engaging Participants in Cessation, SIP13–073, Panel C, initial review.''

CONTACT PERSON FOR MORE INFORMATION: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07442 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Understanding the Barriers to Colorectal Cancer Screening among Asian Subgroups, Special Interest Project (SIP)13–067; and Feasibility Study of the New Clinical Measure of Colorectal Cancer Screening for Federally Qualified Health Centers (FQHCs), SIP13–069, Panel B, initial review.

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 aforementioned meeting:

Time and Date: 11:00 a.m.–6:00 p.m., May 8, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of ''Understanding the Barriers to Colorectal Cancer Screening among Asian Subgroups, SIP13–067; and Feasibility Study of the New Clinical Measure of Colorectal Cancer Screening for Federally Qualified Health Centers (FQHCs), SIP13–069, Panel B, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2013–07441 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Initial Review

The meeting announced below concerns Monitoring Cause-Specific School Absenteeism for Estimating Community Wide Influenza Transmission, Funding Opportunity Announcement (FOA) CK13–003, initial review.

Correction

The notice was published in the **Federal Register** on February 28, 2013, Volume 78, Number 40, Page 13677. The meeting announced should read as follows:

Monitoring Cause-Specific School Absenteeism for Estimating Community Wide Influenza Transmission, FOA CK13–003, initial review.

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833.

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07438 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

Notice of Cancellation: A notice was published in the **Federal Register** on February 12, 2013, Volume 78, Number 29, page 9926–9927, announcing a teleconference of the Cost-Benefit of Incentive-based Smoking Cessation for Pregnant Women, Funding Opportunity Announcement DP 13–003, initial review, on April 2, 2013. This meeting is canceled.

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07439 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Attitudes Towards Cognitive Health, Cognitive Impairment, and Caregiving—Identifying Attitude Questions and Measures for Public Health Practice, Special Interest Project (SIP)13–071; and Expanding Information about Dementia and Co-occurring Chronic Conditions among Older Adults, SIP13–072, Panel E, initial review.

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 aforementioned meeting:

Time and Date: 11:00 a.m.–6:00 p.m., May 15, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of ''Attitudes Towards Cognitive Health, Cognitive Impairment, and Caregiving—Identifying Attitude Questions and Measures for Public Health Practice, SIP13–071; and Expanding Information about Dementia and Co-occurring Chronic Conditions among Older Adults, SIP13–072, Panel E,'' initial review.

Contact Person For More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07444 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Development of an Evidenced—Informed Mall Walking Program Resource Guide, Special Interest Project (SIP)13–070, Panel D, initial review.

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 aforementioned meeting:

Time and Date: 1:00 p.m.–5:00 p.m., May 14, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

MATTERS TO BE DISCUSSED: The meeting will include the initial review, discussion, and evaluation of ''Development of an Evidenced—Informed Mall Walking Program Resource Guide, SIP13–070, Panel D, initial review.''

CONTACT PERSON FOR MORE INFORMATION: M. Chris Langub, Ph.D., Scientific

Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–07443 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2013–0003]

Walking as a Way for Americans To Get the Recommended Amount of Physical Activity for Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: To address the public health problem of physical inactivity, the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS) announces the opening of a docket to obtain information from the public on walking as an effective way to be sufficiently active for health. The information obtained will be used to frame an anticpated Surgeon General's call to action on this issue.

DATES: Individuals and organizations interested in providing information must submit their written comments on or before May 1, 2013.

ADDRESSES: Comments may be submitted by any of the two following methods:

- *Internet:* Electronic comments may be sent via: *http://www.regulations.gov,* docket number CDC–2013–0003. Please follow the instructions on the site to submit comments; or
- *Mail:* Comments may also be sent by mail to the attention of Joan Dorn, Ph.D., Chief, Physical Activity and Health Branch, Division of Nutrition, Physical Activity, and Obesity, Centers for Disease Control and Prevention, 4770 Buford Highway NE., MS–K46, Atlanta, Georgia, 30341–3717.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2013–0003).

All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Joan Dorn, Ph.D., Chief, Physical Activity and Health Branch, Division of Nutrition, Physical Activity, and Obesity, Centers for Disease Control and Prevention, 4770 Buford Highway NE., MS–K46, Atlanta, Georgia, 30341–3717 by telephone (770–488–5692) or email (*frnwalking@cdc.gov*).

SUPPLEMENTARY INFORMATION:

Scope of the problem: Less than half (48%) of all U.S. adults (1) meet the 2008 Physical Activity Guidelines, which will be included in the docket as a supporting document, and less than 3 in 10 high school students get at least 60 minutes of physical activity every day (2). Only 13 percent of children walk or bike to school, compared with 44 percent a generation ago (3). More than a quarter of trips made by car are within one mile of home (4). Observed differences in physical activity levels among some population groups include: physical activity levels decline with age (5); activity levels are lower in low-income communities and among racial/ethnic miniorities (6); and, in general, persons with disabilities are less active than those without disabilities (7). Causes for lower physical activity levels vary but may in part be due to a lack of available and/or accessible places for safe and enjoyable physical activity. Walking can be an enjoyable recreational, occupational or purposeful (e.g., for transportation) physical activity in which many Americans can engage. It can enhance health and quality of life and can also serve as a gateway to other enjoyable types of physical activity.

Approach: HHS/CDC works to increase health-related physical activity through population-based approaches. The agency also conducts physical activity related surveillance, applied research and evaluation, and translates and disseminates associated best practices to inform efforts to improve opportunities and support for physical activity. Consistent with these activities, HHS/CDC is assisting the Office of the Surgeon General in the Department of Health and Human Services to issue a call to action to increase attention to the promotion of walking and walkability to help Americans become more physically active. The intent of the Surgeon General's call to action is to identify opportunities and actions that can be taken by all levels of government, civic organizations, health care providers, educational institutions, worksites, industry, service providers, individuals and others to increase walking and walkability throughout the nation by providing access to safe, attractive and convenient places to walk (and wheelchair roll) and creating a culture that supports walking for Americans of all ages and abilities.

We invite comments and information on environmental or systems strategies; interventions that increase walkability of communities and walking for individuals; and national-, state-, tribal-, territorial-, community-, organizational-, and individual-level actions. We are particularly interested in strategies that consider individuals with developmental and chronic disease-related disabilities, and groups having health and physical activity disparities or lack resources and opportunities to be physically active.

Areas of Focus: Many factors can contribute to low levels of walking and physical inactivity, including lack of access to safe and convenient places to walk, lack of signage and directional information, long distances to destinations, lack of public transportation, and lack of the inclusion of persons with mobility limitations in walking campaigns and programs. HHS/CDC and the Office of the Surgeon General are interested in receiving information on the following topics:

(1) Barriers to walking for youth; adults; seniors; persons with developmental, injury, and chronic disease-related disabilities; racial and ethnic minorities; and low-income individuals.

(2) Evidence-based strategies for overcoming those barriers and their reach and impact to increase physical activity at the population level and among the above mentioned subpopulations.

References

(1) Schiller JD, Jucas JW, Ward BW, Peregoy JA. Summary health statistics for U.S. adults: National Health Interview Survey, 2010. Vital Health Stat 2012;10(252).

(2) CDC. Youth Risk Behavior Surveillance—United States, 2011. *MMWR* 2012;61(SS–4).

(3) Centers for Disease Control and Prevention. The association between school based physical activity, including physical education, and academic performance. Atlanta, GA: U.S. Department of Health and Human Services; 2010. Available at *http://www.cdc.gov/healthyyouth/health_and_academics/pdf/pa-pe_paper.pdf.* Accessed May 17, 2011.

(4) Nationwide Personal Transportation Survey. U.S. Department of Transportation, Federal Highway Administration, Research and Technical Support Center. Lanham, MD: Federal Highway Administration, 1997.
(5) Trost SG, Owen N, Bauman AE, et al. Correlates of adults' participation in physical activity: Review and update, 1996–2001. Med Sci Sports Exerc. 2002 Dec;34(12). Available at *http://www.healthypeople.gov/2020/topicsobjectives2020/overview.aspx?topicid=33.* Accessed May 16, 2011.; U.S. Department of Health and Human Services 2008 Physical Activity Guidelines for Americans. Available from *http://www.health.gov/paguidelines.* Accessed May 16, 2011.
(6) Sallis JF, Prochaska JJ, Taylor WC. A review of correlates of physical activity of children and adolescents. Med Sci Sports Exerc. 2000; 32: 963–75.
(7) Centers for Disease Control and Prevention. Physical activity among adults with a disability—United States 2005. MMWR. 2007:56(39):1021–1024.

Dated: March 18, 2013.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2013–07204 Filed 3–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0286]

Draft Guidance for Industry on Formal Meetings Between FDA and Biosimilar Biological Product Sponsors or Applicants; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of biosimilar biological products regulated by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). The guidance assists sponsors and applicants in generating and submitting a meeting request and the associated meeting package to FDA for biosimilar biological products.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 31, 2013. Submit either electronic or written comments concerning the proposed collection of information by May 31, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Neel Patel, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6483, Silver Spring, MD 20993–0002, 301–796–0970; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of biosimilar biological products regulated by CDER and CBER. For the purposes of this draft guidance, ''formal meeting'' includes any meeting that is requested by a sponsor or applicant following the request procedures provided in this draft guidance and includes meetings conducted in any format (i.e., face-to-face meeting, teleconference, or videoconference).

The Biologics Price Competition and Innovation Act of 2009 amended the Public Health Service (PHS) Act and other statutes to create an abbreviated licensure pathway in section 351(k) of the PHS Act (42 U.S.C. 262(k)) for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological product (see sections 7001 through 7003 of the Patient Protection and Affordable Care Act (Pub. L. 111–148)). The Biosimilar User Fee Act of 2012 (BsUFA), enacted as part of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to authorize a new user fee program for biosimilar biological products. FDA has committed to meeting certain performance goals in connection with the new user fee program. The performance goals, which are set forth in a letter from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives,[1] include meeting management goals for formal meetings that occur between FDA and sponsors or applicants during the development phase of a biosimilar biological product. This draft guidance describes the Agency's current thinking on how it intends to interpret and apply certain provisions of BsUFA, and also provides information on specific performance goals for the management of meetings associated with the development and review of biosimilar biological products.

This draft guidance reflects a unified approach to all formal meetings between sponsors or applicants and FDA for biosimilar biological product development (BPD) programs. It is intended to assist sponsors and applicants in generating and submitting a meeting request and the associated meeting package to FDA for biosimilar biological products. This draft guidance does not apply to new drug or abbreviated new drug applications under section 505 of the FD&C Act or to biologics license applications (BLAs) under section 351(a) of the PHS Act.

FDA expects that review staff will participate in many meetings with biosimilar biological product sponsors

[1] See *http://www.fda.gov/downloads/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/TherapeuticBiologicApplications/Biosimilars/UCM281991.pdf.*

or applicants who seek guidance relating to the development and review of biosimilar biological products. Because these meetings often will represent critical points in the regulatory process, it is important that there are efficient, consistent procedures for the timely and effective conduct of such meetings. The good meeting management practices in this draft guidance are intended to provide consistent procedures that will promote well-managed meetings and to ensure that such meetings are scheduled within a reasonable time, conducted efficiently, and documented appropriately. The following five meeting types that occur between sponsors or applicants and FDA staff during the biosimilar BPD phase are described in the draft guidance: (1) Biosimilar Initial Advisory meeting; (2) BPD Type 1 meeting; (3) BPD Type 2 meeting; (4) BPD Type 3 meeting; and (5) BPD Type 4 meeting.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on formal meetings between FDA and sponsors or applicants regarding biosimilar biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The draft guidance on the procedures for formal meetings between FDA and biosimilar biological product sponsors or applicants describes procedures for requesting, scheduling, conducting, and documenting such formal meetings.

The draft guidance describes two types of collections of information: (1) The submission of a meeting request containing certain information and (2) the submission of an information package that accompanies the meeting request. The draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information for 21 CFR 312.48 have been approved under OMB control number 0910–0014.

A. Request for a Meeting

Under the draft guidance, a sponsor or applicant interested in meeting with CDER or CBER should submit a meeting request to the sponsor's or applicant's application (e.g., investigational new drug application, BLA) through the controlled document system. If there is no application, the request should be submitted to either the appropriate CDER division director with a copy sent to the division's chief of project management staff or to the division director of the appropriate product office within CBER. Before submitting any meeting request by fax or email when there is no application, the sponsor or applicant should contact the appropriate review division or the Biosimilars Program staff, CDER, Office of New Drugs, to determine to whom the request should be directed, how the request should be submitted, and the appropriate format for the request, and to arrange for confirmation of receipt of the request.

FDA recommends that a request be submitted in this manner to prevent the possibility of faxed or emailed requests being overlooked because of the volume of emails received daily by FDA staff. Faxed or emailed requests should be sent during official business hours (8 a.m. to 4:30 p.m. EST/EDT) Monday through Friday (except Federal government holidays). Processing and receipt may be delayed for requests where confirmation of receipt has not been prearranged.

Under the draft guidance, FDA requests that sponsors and applicants include in meeting requests certain information about the proposed meeting. This information includes:

1. Product Name.
2. Application Number (if applicable).
3. Proposed Proper Name (or proper name if post-licensure).
4. Structure (if applicable).
5. Reference Product Name.
6. Proposed Indication(s) or Context of Product Development.
7. Meeting Type Being Requested (i.e., Biosimilar Initial Advisory meeting, BPD Type 1, 2, 3, or 4 meeting). The rationale for requesting the meeting type should be included.
8. A Brief Statement of the Purpose of the Meeting. This statement should include a brief background of the issues underlying the agenda. It also can include a brief summary of completed or planned studies and clinical trials or data that the sponsor or applicant intends to discuss at the meeting, the general nature of the critical questions to be asked, and where the meeting fits in overall development plans. Although the statement need not provide detailed documentation of trial designs or completed studies and clinical trials, it should provide enough information to facilitate understanding of the issues, such as a small table that summarizes major results.
9. A List of the Specific Objectives/Outcomes the Requester Expects from the Meeting.
10. A Proposed Agenda, Including Estimated Times Needed for Each Agenda Item.
11. A List of Questions, Grouped by Discipline. For each question there should be a brief explanation of the context and purpose of the question.
12. A List of Ill Individuals with Their Titles and Affiliations Who Will Attend the Requested Meeting from the

Sponsor's or Applicant's Organization and Consultants.

13. A List of FDA Staff, if Known, or Disciplines, Asked to Participate in the Requested Meeting.

14. Suggested Dates and Times (e.g., morning or afternoon) for the Meeting Which are Within or Beyond the Appropriate Time Frame of the Meeting Type Being Requested.

15. The Proposed Format of the Meeting (i.e., face-to-face meeting, teleconference, or videoconference).

This information will be used by FDA to determine the utility of the meeting, to identify FDA staff necessary to discuss proposed agenda items, and to schedule the meeting.

B. Information Package

FDA requests that a sponsor or applicant submit a meeting package to the appropriate review division with the meeting request. FDA recommends that information packages generally include:

1. Product Name and Application Number (if applicable).

2. Proposed Proper Name (or proper name if postlicensure).

3. Structure (if applicable).

4. Reference Product Name.

5. Proposed Indication(s) or Context of Product Development.

6. Dosage Form, Route of Administration, Dosing Regimen (frequency and duration), and Presentation(s).

7. A List of Sponsor or Applicant Attendees, Affiliations, and Titles.

8. A Background Section that Includes the Following:

a. *A brief history of the development program.*

b. *The status of product development (e.g., chemistry, manufacturing, and controls; nonclinical; and clinical, including any development outside the United States, as applicable).*

9. A Brief Statement Summarizing the Purpose of the Meeting.

10. A Proposed Agenda.

11. A List of Questions for Discussion Grouped by Discipline and with a Brief Summary for Each Question to Explain the Need or Context for the Question.

12. Data to Support Discussion Organized by Discipline and Question. The level of detail of the data should be appropriate to the meeting type requested and the product development stage.

The purpose of the information package is to provide FDA staff the opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product.

Description of Respondents: A sponsor or applicant for a biosimilar biological product who requests a formal meeting with FDA regarding the development and review of a biosimilar biological product.

Burden Estimate: Provided below is an estimate of the annual reporting burden for the submission of meeting requests and information packages under the draft guidance.

The estimated number of respondents submitting meeting requests and information packages is based on the current workload and development expectations for biosimilar biological products. The burden hour estimate includes any time that may be needed by sponsors or applicants for rescheduling and canceling meetings, for premeetings and other communications with FDA about the meetings, and for resolution of disputes about meeting minutes.

Based on the current workload and development expectations, FDA estimates that approximately 15 sponsors and applicants (respondents) may request approximately a total of 30 formal meetings, and submit approximately 30 information packages, with CDER annually, and approximately 1 respondent may request approximately 2 formal meetings, and submit approximately 2 information packages, with CBER annually.

For a meeting request, the hours per response, which is the estimated number of hours that a respondent would spend preparing the information to be submitted with a meeting request in accordance with the draft guidance, is estimated to be approximately 15 hours. Based on FDA's experience, we expect it will take respondents this amount of time to gather and copy brief statements about the product and a description of the purpose and details of the meeting.

For an information package, the hours per response, which is the estimated number of hours that a respondent would spend preparing the information package in accordance with the draft guidance, is estimated to be approximately 30 hours. Based on FDA's experience, we expect it will take respondents this amount of time to gather and copy brief statements about the product, a description of the details for the anticipated meeting, and data and information that generally would already have been compiled for submission to FDA. In total, we expect sponsors to spend 480 hours preparing meeting requests and 960 hours preparing information packages each year.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Draft guidance for industry on formal meetings between FDA and biosimilar biological product sponsors or applicants	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Meeting Requests:					
CDER	15	2	30	15	450
CBER	1	2	2	15	30
Total					480
Information Packages:					
CDER	15	2	30	30	900
CBER	1	2	2	30	60
Total					960
Total					1,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *http://www.regulations.gov.*

Dated: March 27, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–07445 Filed 3–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0295]

Draft Guidance for Industry on Scale-Up and Post-Approval Changes: Manufacturing Equipment Addendum; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a scale-up and post-approval changes (SUPAC) draft guidance for industry entitled ''SUPAC: Manufacturing Equipment Addendum.'' This revised draft document combines and supersedes ''SUPAC IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms: Manufacturing Equipment Addendum,'' published on January 1, 1999; and ''SUPAC–SS: Nonsterile Semisolid Dosage Forms; Manufacturing Equipment Addendum,'' published as a draft on December 1, 1998. FDA has now revised the draft manufacturing equipment addenda to remove the equipment examples and to clarify the types of processes being referenced.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance and on any other part of the SUPAC guidance series, submit either electronic or written comments on the draft guidance by July 1, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jon Clark, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2400.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a SUPAC draft guidance for industry entitled ''SUPAC: Manufacturing Equipment Addendum.'' This revised draft document combines and supersedes the following guidances for industry: (1) ''SUPAC IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms: Manufacturing Equipment Addendum,'' published on January 1, 1999, and (2) ''SUPAC–SS: Nonsterile Semisolid Dosage Forms; Manufacturing Equipment Addendum,'' published as draft on December 1, 1998. When published, these guidances included tables that listed specific equipment that were misinterpreted as a list of FDA required equipment. In addition, FDA is concerned that the equipment addenda may no longer reflect current practices and may be limiting, instead of encouraging, manufacturers to continually evaluate and update practices. FDA has removed the tables listing specific manufacturing equipment from these guidances and combined them into a single addendum. FDA has also made some changes to clarify the types of processes being referenced.

This guidance should be used with the following guidances for industry to determine what documentation should be submitted to FDA regarding equipment changes: (1) ''SUPAC–IR: Immediate Release Solid Oral Dosage Forms—Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls, In Vitro Dissolution Testing, and In Vivo Bioequivalence Documentation'' (*http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM070636.pdf*), (2) ''SUPAC–MR: Modified Release Solid Oral Dosage Forms Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation'' (*http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM070640.pdf*), and (3) ''SUPAC–SS: Nonsterile Semisolid Dosage Forms, Scale-Up and Post Approval Changes: Chemistry Manufacturing and Controls; In Vitro Release Testing and In Vivo Bioequivalence Documentation'' (*http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM070930.pdf*).

As part of a greater effort, FDA is thoroughly reviewing the SUPAC guidance series to determine how these guidances fit with current manufacturing practices, including, but not limited to, risk-based assessment approaches and quality by design principles. These efforts will also be considered part of the finalization process for this guidance.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on manufacturing equipment. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: March 26, 2013.

Peter Lurie,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2013–07432 Filed 3–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Health Resources and Services Administration (HRSA) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office at (301) 443–1984.

Information Collection Request Title: Bureau of Health Professions Performance Data Collection (OMB No. 0915–0061)—[Revision].

Abstract: Over 40 BHPr programs award grants to health professions schools and training programs across the United States to develop, expand, and enhance training; and to strengthen the distribution of the health workforce. Many of these programs are governed by the Public Health Service Act (42 U.S.C. 201 *et seq.*), specifically Titles III, VII, and VIII. Performance information is collected in the HRSA Performance Report for Grants and Cooperative Agreements (PRGCA).

Data collection activities at application, progress, and annual performance satisfy statutory and programmatic requirements for performance measurement and evaluation (including specific Title III, VII and VIII requirements), as well as Government Performance and Results Act (GPRA) requirements. The Affordable Care Act (Pub. L. 111–148) impacted a broad range of health workforce programs administered by BHPr. It reauthorized most of these programs and, in some cases, expanded eligibility, modified program activities, and/or established new requirements. The Affordable Care Act also created new health professions programs. Therefore, it was necessary to reexamine BHPr's existing performance measures to ensure that they address these changes, meet evolving program management needs, and respond to emerging workforce concerns.

The proposed revised data collection will enhance analysis and reporting of grantee training and education activities, outcomes, and intended practice locations. Data collected from these grant programs will also provide a description of the program activities of more than 1,600 reporting grantees to better inform policymakers on the barriers, opportunities, and outcomes involved in health care workforce development. The proposed measures focus on five key outcomes: (1) Increasing the workforce supply of diverse well-educated practitioners; (2) influencing the distribution of practitioners to practice in underserved and rural areas; (3) enhancing the quality of education; (4) diversifying the pipeline for new health professionals; and (5) supporting educational infrastructure to increase the capacity to train more health professionals. Revisions to the current reporting will require the collection of baseline data at the grant application and award stages and will include performance reporting semi-annually by the type of programs: direct financial support programs, infrastructure programs, and multipurpose or hybrid programs (could be direct financial support, infrastructure or both within the same grant program). Measures will be reported at the individual, program-specific and/or program cluster-levels.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The annual estimate of burden is as follows:

Type of respondent	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden Hours
Direct Financial Support Program	1,000	2	2,000	1.4	2,800
Infrastructure Program	283	2	566	3.16	1,789
Multipurpose or Hybrid Program	480	2	960	3.28	3,148
Total	1,763		3,526		7,737

ADDRESSES: Submit your comments to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Deadline: Comments on this ICR should be received within 30 days of this notice.

Dated: March 26, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–07455 Filed 3–29–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-day Comment Request; The National Cancer Institute (NCI) SmokefreeTXT Program Evaluation

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted

to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on January 14, 2013 (Volume 78, Page 2678) and allowed 60-days for public comment. Shortly after the publication, two public comments were received requesting a copy of the data collection plans and instruments and one public comment was received in regards to the funding of the study. The comments were responded to with the requested information. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, contact Erik Augustson, Ph.D., MPH, Behavioral Scientist/Health Science Administrator, Division of Cancer Control and Population Sciences, 6130 Executive Blvd., EPN–4034, Bethesda, MD 20892–7337 or call non-toll-free number 301–435–7610 or Email your request, including your address to: *augustse@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The National Cancer Institute (NCI) SmokefreeTXT Program Evaluation, 0925–NEW, NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This study seeks to assess the efficacy of the SmokefreeTXT program, a text message smoking cessation intervention designed for young adult smokers ages 18 to 29. The SmokefreeTXT program is a component of a larger series of eHealth/mHealth tobacco cessation intervention programs. SmokefreeTXT has been developed (and is managed) by the National Cancer Institute (NCI) Tobacco Control Research Branch (TCRB) at the request of the Office of the Assistant Secretary for Health (OASH) at the Department of Health and Human Services (DHHS). The study seeks to recruit a large sample of adult smokers to examine how exposure to the SmokefreeTXT intervention affects participants' success at quitting smoking. There will be 3-arms to the study; participants will be enrolled for a maximum of 8 weeks of treatment in the SmokefreeTXT program, with frequency and duration of the treatment varying by study arm. The SmokefreeTXT Study will collect self-reported cessation data using the bidirectional aspect of text-messaging service and a series of web-based surveys. All web-based survey data will be collected and stored by a third-party, Research Triangle Institute International (RTI). Respondents will complete a screener, 5 web-based surveys, and an exit survey for a total of 8,353 annual burden hours. The five surveys include: (1) Pre-treatment baseline survey; (2) one week post quit date questionnaire; (3) end of active cessation treatment questionnaire; (4) 12-week post-treatment questionnaire; (5) 24-weeks post-treatment questionnaire.

OMB approval is requested for 2 years. There are no costs to respondents other than their time. The estimated annualized burden hours are 4,250.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Survey instrument	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total burden hours
Adults Aged 18 to 29	Screener/recruitment	10,620	1	5/60	885
	Baseline	2,124	1	30/60	1,062
	1 week post-quit date	1,700	1	15/60	425
	6 weeks post quit date	1,360	1	30/60	680
	12 weeks post-treatment	1,088	1	15/60	272
	24 weeks post treatment	870	1	15/60	218
	Ineligible Script	8,496	1	5/60	708

Dated: March 19, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–07551 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Center for Scientific Review Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Center for Scientific Review Advisory Council.

Date: May 6, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: Provide advice to the Director, Center for Scientific Review (CSR), on matters related to planning, execution, conduct, support, review, evaluation, and receipt and referral of grant applications at CSR.

Place: Health and Human Services Building, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Donald L Schneider, Ph.D., Senior Advisor to the Director, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3030, MSC 7776, Bethesda, MD 20892, (301) 435–1111, *schneidd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 26, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07419 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

Date: April 25, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 26, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07422 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–1 Subcommittee.

Date: June 10–11, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Best Western Tuscan Inn, 425 North Point Street, San Francisco, CA 94133.

Contact Person: Raul A. Saavedra, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C.

Date: June 20–21, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov.*

Name of Committee: Neurological Sciences Training Initial Review Group; NST–2 Subcommittee.

Date: June 24–25, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *mcconnej@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated:March 26, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07425 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Complementary and Alternative Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine.

Date: June 7, 2013.

Closed: 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Open: 10:15 a.m. to 4:00 p.m.

Agenda: Report from the Institute Director and other business of the Council.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Martin H. Goldrosen, Ph.D., Director, Division of Extramural Activities, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Ste. 401, Bethesda, MD 20892–5475, (301) 594–2014, *goldrosm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *nccam.nih.gov/about/naccam/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: March 26, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07421 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel PAR–12–297: Mechanism for Time-Sensitive Drug Abuse Research.

Date: April 9, 2013.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 26, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07424 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Profile Screening and Predictive Toxicology (8909).

Date: April 29, 2013.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 26, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–07423 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information: The National Toxicology Program Requests Information On Assays and Approaches Useful for Screening Compounds for Potential Neurotoxicity

SUMMARY: The National Toxicology Program (NTP) requests information on medium- or high-throughput technologies/assay systems, which allow for the batch screening of compounds (e.g., 25–50) in biochemical- or cell-based assays or alternative (non-rodent) animal models, that might be used to prioritize compounds for *in vivo* neurotoxicity testing.

DATES: The deadline for receipt of information is May 1, 2013.

ADDRESSES: Information may be submitted electronically or as printed copy.

Electronic submissions: Email to *barbourp@niehs.nih.gov.*

Print submissions: Send 4 copies to Patrick J. Barbour, Contract Specialist, National Institute of Environmental Health Sciences (NIEHS), P.O. Box 12233 (MD K1–05), Research Triangle Park, NC 27709. Courier address: 530 Davis Drive, Keystone Building, Room 1059, Morrisville, NC 27560.

FOR FURTHER INFORMATION CONTACT: Patrick J. Barbour, Contract Specialist, NIEHS, P.O. Box 12233 (MD K1–05), Research Triangle Park, NC 27709. Courier address: 530 Davis Drive, Keystone Building, Room 1059, Morrisville, NC 27560. Email: *barbourp@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

For the purposes of this request for information (RFI), neurotoxicity means adverse outcomes to the nervous system resulting from exposure during any life stage. Special emphasis is placed on identifying assay systems that interrogate cellular and molecular events that are critical to the development and/or function of the nervous system. The NTP is also interested in receiving

recommendations on molecular targets within critical cellular toxicity pathways in biochemical- or cell-based assays or alternative animal models that assess the potential ability of compounds to act as toxicants to the developing or adult nervous systems.

Request for Information

1. Information on technologies/assays currently available for screening critical pathways involved in neurotoxicity where the endpoint is associated with a phenotypic manifestation of toxicity *in vivo* (adverse outcome).

a. The referred technologies/assays should have the ability to batch screen sets of at least 20 compounds to produce a concentration response curve suitable for defining the potency and efficacy of a response and have been demonstrated to be both reliable and relevant.

b. Specific information requested for each assay includes the robustness of the assay, dose-response and time-course toxicity profiles, as well as to what extent the assay informs on specific neurotoxicity life-stage windows (i.e., developmental, juvenile, ageing).

2. Information on assays that can be used to measure the activity of a compound on a molecular initiating event or key event within a neurotoxicity adverse outcome pathway.

3. Information on the best molecular or cellular targets that accurately characterize the activity of a compound within a specific pathway resulting in an adverse neurotoxic outcome.

4. Information on assays, technologies, or methods that will aid in identifying neurotoxic compounds, which are activated or deactivated by metabolic activity.

Respondents to this RFI are asked to provide the following: the Data Universal Numbering System or DUNS® number, organization name, address, technical and administrative points of contact (including names, titles, addresses, telephone and fax numbers, and email address), the North American Industry Classification System (NAICS) code, and size and type of business (e.g., 8(a), HUBZone, WOSB, SDVOSB, etc.). Information packages should not exceed one (1) page in length, excluding standard brochures. Telephone and facsimile responses will not be accepted. Electronic information should be submitted in Microsoft Office (Word, PowerPoint, Excel), Adobe PDF, or compatible formats sufficient to clearly read the information provided. Please include a cover page identifying the technical and administrative points of contact for the organization, including names, titles, addresses, telephone and fax numbers, email addresses, and organization name. The deadline for receipt of the requested information is May 1, 2013.

Responses to this request are voluntary. This notice does not obligate the U.S. Government to award a contract or otherwise pay for the information provided in response to this request. The U.S. Government reserves the right to use information provided by respondents for any purpose deemed necessary and legally appropriate. Any organization responding to this request should ensure that its response is complete and sufficiently detailed. Respondents are advised that the U.S. Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response.

Background Information on the NTP

The NTP is an interagency program established in 1978 (43 FR 53060) to coordinate toxicology research and testing across the Department of Health and Human Services. Other activities of the program focus on strengthening the science base in toxicology, developing and validating improved testing methods, and providing information about potentially toxic chemicals to health regulatory and research agencies, scientific and medical communities, and the public. Information about the NTP is found at *http://ntp.niehs.nih.gov.*

Dated: March 25, 2013.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2013–07420 Filed 3–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently certified Laboratories and Instrumented Initial Testing Facilities (IITF) is published in the **Federal Register** during the first week of each month. If any Laboratory/IITF's certification is suspended or revoked, the Laboratory/IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any Laboratory/IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'', as amended in the revisions listed above, requires strict standards that Laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies.

To become certified, an applicant Laboratory/IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory/IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and Instrumented Initial Testing Facilities (IITF) in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory/

IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Instrumented Initial Testing Facilities (IITF)

None.

Laboratories

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.,)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories)

Redwood Toxicology Laboratory, 3650 Westwind Blvd., Santa Rosa, CA 95403, 707–570–4434

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in

the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2013–07446 Filed 3–29–13; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0164]

Information Collection Requests to Office of Management and Budget.

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0049, Waterfront Facilities Handling Liquefied Natural Gas (LNG) and Liquefied Hazardous Gas (LHG) and 1625–0063, Marine Occupational Health and Safety Standards for Benzene—46 CFR part 197 Subpart C. Our ICRs describe the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 31, 2013.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0164] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST SW STOP 7101, WASHINGTON DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public participation and request for comments.

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2013–0164], and must be received by May 31, 2013. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments

If you submit a comment, please include the docket number [USCG–2013–0164], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES;** but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2013–0164'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then

become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0164'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Requests

1. *Title:* Waterfront Facilities Handling Liquefied Natural Gas (LNG) and Liquefied Hazardous Gas (LHG).

OMB Control Number: 1625–0049.

Summary: Liquefied Natural Gas (LNG) and other Liquefied Hazardous Gases (LHG) present a risk to the public when handled at waterfront facilities. These rules should either prevent accidental releases at waterfront facilities or mitigate their results. They are necessary to promote and verify compliance with safety standards.

Need: Title 33 CFR part 127 prescribe safety standards for the design, construction, equipment, operations, maintenance, personnel training, and fire protection at waterfront facilities handling LNG or LHG.

Forms: None.

Respondents: Owners and operators of waterfront facilities that transfer LNG or LHG.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 9,504 hours to 6,425 hours a year.

2. *Title:* Marine Occupational Health and Safety Standards for Benzene—46 CFR 197 Subpart C.

OMB Control Number: 1625–0063.

Summary: To protect marine workers from exposure to toxic Benzene vapor, the Coast Guard implemented Title 46 CFR part 197 subpart C.

Need: This information collection is vital to verifying compliance.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 59,766 hours to 38,165 hours a year due to a correction in the method of calculating burden.

Dated: March 22, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–07480 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0045]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0087, U.S. Coast Guard International Ice Patrol (IIP) Customer Survey without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 31, 2013.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0045] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means: (1) *Online: http://www.regulations.gov*.

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov*.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST SW STOP 7101, WASHINGTON DC 20593–7101.

FOR FURTHER INFORMATION: Contact Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2013–0045], and must be received by May 31, 2013. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2013–0045], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2013–0045'' in the ''Keyword'' box. If you submit your comments by mail or delivery, submit them in an unbound format, no larger than 8–1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0045'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

Title: U.S. Coast Guard International Ice Patrol (IIP) Customer Survey.

OMB Control Number: 1625–0087.

Summary: This information collection provides feedback on the processes of delivery and products distributed to the mariner by the International Ice Patrol.

Need: In accordance with Executive Order 12862, the U.S. Coast Guard is directed to conduct surveys (both qualitative and quantitative) to determine the kind and quality of services our customers want and expect, as well as their satisfaction with USCG's existing services. This survey will be limited to data collections that solicit strictly voluntary opinions and will not collect information that is required or regulated.

Forms: CG–16700.

Respondents: Owners and operators of vessels transiting the North Atlantic.

Frequency: Annually.

Burden Estimate: The estimated burden is estimated to be 120 hours.

Dated: March 22, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–07479 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0133]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an approval of a revision to the following collection of information: 1625–0056, Labeling Required In 33 CFR parts 181 and 183 and 46 CFR 25.10–3. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 31, 2013.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0133] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST SW STOP 7101, WASHINGTON DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Anthony Smith, Office of Information

Management, telephone 202–475–3532, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments.

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2013–0133], and must be received by May 31, 2013. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2013–0133], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov*, and type ''USCG–2013–0133'' in the ''Keyword'' box. If you submit your comments by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0133'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

Title: Labeling Required in 33 CFR Parts 181 and 183 and 46 CFR 25.10–3.

OMB Control Number: 1625–0056.

Summary: Parts 181 and 183 of Title 33, Code of Federal Regulations and 46 CFR 25.10–3 contain the regulations and safety standards authorized by the statutes which apply to manufacturers of recreational boats, un-inspected commercial vessels and associated equipment. The regulations and safety standards contain information collections, which require boat and associated equipment manufacturers, importers and the boating public to apply for serial numbers and to display various labels evidencing compliance: Hull Identification Numbers; U.S. Coast Guard Maximum Capacities Label; Gasoline Fuel Tank Label; USCG Type Fuel Hose Label; and Certified Navigation Light Label.

Need: Title 46 U.S.C. 4302(a)(3) gives the Coast Guard the authority to require the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

Forms: None.

Respondents: Manufacturers of boats, fuel tanks, fuel hoses and navigation lights.

Frequency: Once.

Burden Estimate: 156,170 hours annually.

Dated: March 22, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–07481 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The Strategic Planning Subcommittee of the National Boating Safety Advisory Council (NBSAC) will meet via teleconference and online webinar to discuss issues related to the strategic plan of the national recreational boating safety program. This teleconference meeting will be open to the public.

DATES: The teleconference/webinar meeting will take place on Thursday,

April 25, 2013, from 1 p.m. to 3 p.m. EST. This meeting may end early if all business is finished before 3 p.m. If you wish to make oral comments at the teleconference, simply notify Mr. Jeff Ludwig before the meeting, as specified in the **ADDRESSES** section, or the designated Coast Guard staff at the meeting. If you wish to submit written comments or make a presentation, submit your comments or request to make a presentation by April 19, 2013.

ADDRESSES: The Subcommittee will meet via teleconference and online webinar. To participate by phone and view the webinar, contact the Alternate Designated Federal Officer (ADFO) listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference/webinar information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To join those participating in this teleconference from U.S. Coast Guard Headquarters, come to Room 5–0624, U.S. Coast Guard Headquarters Building, 2100 Second Street SW., Washington, DC 20593. You must present a valid, government-issued photo identification to gain entrance to the Coast Guard Headquarters building.

If you want to make a presentation, send your request by April 19, 2013, to Mr. Jeff Ludwig, NBSAC ADFO, telephone 202–372–1061, Commandant (CG–BSX–2), 2100 Second Street SW Stop 7581, Washington, DC 20593–7581 or by fax to 202–372–1908. To facilitate public participation we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. You may submit a written comment on or before April 19, 2013 or make an oral comment during the public comment portion of the meeting.

To submit a comment in writing, use one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*

Follow the instructions for submitting comments.

- *Email: jeffrey.a.ludwig@uscg.mil.* Include the docket number (USCG–2010–0164) on the subject line of the message.
- *Fax:* (202) 372–1908 Include the docket number (USCG–2010–0164) on the subject line of the fax.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9239.

Instructions: Include the words ''Department of Homeland Security'' and the docket number of this notice in your submission. All comments submitted will be posted on *www.regulations.gov* without alteration and will contain personal information you provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this NBSAC meeting, go to *www.regulations.gov,* insert ''USCG–2010–0164'' in the ''Search'' box and then click ''Search.''

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, USCG, NBSAC ADFO, telephone 202–372–1061, email *jeffrey.a.ludwig@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: We are publishing this meeting notice under provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix. NBSAC provides advice and recommendations to the Department of Homeland Security on matters relating to recreational boating safety. See 33 U.S.C. 13110.

Agenda of Meeting

The agenda for April 25, 2013 includes:

(1) Discussion of progress made on the objectives and strategies of the 2012–2016 national recreational boating safety program strategic plan.

(2) Public comment.

A final agenda will be available on *http://homeport.uscg.mil/NBSAC NLT* April 11, 2013.

Public Participation

We have scheduled the last fifteen minutes of the meeting, from 2:45 to 3 p.m., for oral comments from the public. If you wish to make an oral comment, please contact Mr. Jeff Ludwig, listed in the **FOR FURTHER INFORMATION CONTACT** section, either before the meeting or at the meeting when the members of the audience are requested to state their interest in commenting. We request that you limit your oral comments to 3 minutes. Please note that this public comment period may start before 2:45 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so.

For information on facilities or services for individuals with disabilities or to request special assistance at the teleconference, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

Dated: March 26, 2013.

David S. Fish,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. 2013–07531 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The Prevention Through People Subcommittee of the National Boating Safety Advisory Council (NBSAC) will meet via teleconference and online webinar to discuss issues related to improving safety of recreational boating through the development of safer boating practices. This teleconference meeting will be open to the public.

DATES: The teleconference/webinar meeting will take place on Monday, April 29, 2013, from 1 p.m. to 3 p.m. EST. This meeting may end early if all business is finished before 3 p.m. If you wish to make oral comments at the teleconference, simply notify Mr. Jeff Ludwig before the meeting, as specified in the **ADDRESSES** section, or the designated Coast Guard staff at the meeting. If you wish to submit written comments or make a presentation, submit your comments or request to make a presentation by April 19, 2013.

ADDRESSES: The Subcommittee will meet via teleconference and online webinar. To participate by phone and view the webinar, contact the Alternate Designated Federal Officer (ADFO) listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference/webinar information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To join those participating in this teleconference from U.S. Coast Guard Headquarters, come to Room 5–0624, U.S. Coast Guard Headquarters Building, 2100 Second Street SW.,

Washington, DC 20593. You must present a valid, government-issued photo identification to gain entrance to the Coast Guard Headquarters building.

If you want to make a presentation, send your request by April 19, 2013, to Mr. Jeff Ludwig, NBSAC ADFO, telephone 202–372–1061, Commandant (CG–BSX–2), 2100 Second Street SW., Stop 7581, Washington, DC 20593–7581 or by fax to 202–372–1908. To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. You may submit a written comment on or before April 19, 2013 or make an oral comment during the public comment portion of the meeting.

To submit a comment in writing, use one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: jeffrey.a.ludwig@uscg.mil.* Include the docket number (USCG–2010–0164) on the subject line of the message.
- *Fax:* (202) 372–1908 Include the docket number (USCG–2010–0164) on the subject line of the fax.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9239.

Instructions: Include the words ''Department of Homeland Security'' and the docket number of this notice in your submission. All comments submitted will be posted on *www.regulations.gov* without alteration and will contain personal information you provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this NBSAC meeting, go to *www.regulations.gov,* insert ''USCG–2010–0164'' in the ''Search'' box and then click ''Search.''

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, USCG, NBSAC ADFO, telephone 202–372–1061, email *jeffrey.a.ludwig@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: We are publishing this meeting notice under provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix. NBSAC provides advice and recommendations to the Department of Homeland Security on matters relating to recreational boating safety. See 33 U.S.C. 13110.

Agenda of Meeting

The agenda for April 29, 2013 includes:

(1) Discussion of issues related to improving safety of recreational boating through the development of safer boating practices.

(2) Public comment.

A final agenda will be available on *http://homeport.uscg.mil/NBSAC NLT April 15, 2013.*

Public Participation

We have scheduled the last fifteen minutes of the meeting, from 2:45 to 3 p.m., for oral comments from the public. If you wish to make an oral comment, please contact Mr. Jeff Ludwig, listed in the **FOR FURTHER INFORMATION CONTACT** section, either before the meeting or at the meeting when the members of the audience are requested to state their interest in commenting. We request that you limit your oral comments to 3 minutes. Please note that this public comment period may start before 2:45 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so.

For information on facilities or services for individuals with disabilities or to request special assistance at the teleconference, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

Dated: Mar 26, 2013.

David S. Fish,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. 2013–07523 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The Boats and Associated Equipment Subcommittee of the National Boating Safety Advisory Council (NBSAC) will meet via teleconference and online webinar to discuss safety issues related to boats and associated equipment. This teleconference meeting will be open to the public.

DATES: The teleconference/webinar meeting will take place on Tuesday, April 16, 2013, from 1 p.m. to 3 p.m. EST. This meeting may end early if all business is finished before 3 p.m. If you wish to make oral comments at the teleconference, simply notify Mr. Jeff Ludwig before the meeting, as specified in the **ADDRESSES** section, or the designated Coast Guard staff at the meeting. If you wish to submit written comments or make a presentation, submit your comments or request to make a presentation by April 11, 2013.

ADDRESSES: The Subcommittee will meet via teleconference and online webinar. To participate by phone and view the webinar, contact the Alternate Designated Federal Officer (ADFO) listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference/webinar information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To join those participating in this teleconference from U.S. Coast Guard Headquarters, come to Room 5–0624, U.S. Coast Guard Headquarters Building, 2100 Second Street SW., Washington, DC 20593. You must present a valid, government-issued photo identification to gain entrance to the Coast Guard Headquarters building.

If you want to make a presentation, send your request by April 11, 2013, to Mr. Jeff Ludwig, NBSAC ADFO, telephone 202–372–1061, Commandant (CG–BSX–2), 2100 Second Street SW Stop 7581, Washington, DC 20593–7581 or by fax to 202–372–1908. To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. You may submit a written comment on or before April 11, 2013 or make an oral comment during the public comment portion of the meeting.

To submit a comment in writing, use one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*

Follow the instructions for submitting comments.

- *Email: jeffrey.a.ludwig@uscg.mil* Include the docket number (USCG–2010–0164) on the subject line of the message.
- *Fax:* (202) 372–1908 Include the docket number (USCG–2010–0164) on the subject line of the fax.

• *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

• *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9239.

Instructions: Include the words ''Department of Homeland Security'' and the docket number of this notice in your submission. All comments submitted will be posted on *www.regulations.gov* without alteration and will contain personal information you provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this NBSAC meeting, go to *www.regulations.gov,* insert ''USCG–2010–0164'' in the ''Search'' box and then click ''Search.''

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, USCG, NBSAC ADFO, telephone 202–372–1061, email *jeffrey.a.ludwig@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: We are publishing this meeting notice under provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix. NBSAC provides advice and recommendations to the Department of Homeland Security on matters relating to recreational boating safety. See 33 U.S.C. 13110.

Agenda of Meeting

The agenda for April 16, 2013 includes:

(1) Discussion of issues related to the required carriage of safety equipment and compliance with standards and regulations in the manufacture of recreational boats.

(2) Public comment.

A final agenda will be available on *http://homeport.uscg.mil/NBSAC* NLT April 2, 2013.

Public Participation

We have scheduled the last fifteen minutes of the meeting, from 2:45 to 3 p.m., for oral comments from the public. If you wish to make an oral comment, please contact Mr. Jeff Ludwig, listed in the **FOR FURTHER INFORMATION CONTACT** section, either before the meeting or at the meeting when the members of the audience are requested to state their interest in commenting. We request that you limit your oral comments to 3 minutes. Please note that this public comment period may start before 2:45 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so.

For information on facilities or services for individuals with disabilities or to request special assistance at the teleconference, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

Dated: March 26, 2013.

David S. Fish,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. 2013–07535 Filed 3–29–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–27]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Authority Executive Compensation Information

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

Pursuant to PIH Notice 2011–48, HUD has been collecting information on the compensation provided by public housing authorities (PHAs) to their five most highly compensated employees, similar to the information that nonprofit organizations receiving federal tax exemptions are required to report to the IRS annually. Since PHAs receive significant direct federal funds, such compensation information has been collected by HUD to enhance oversight by HUD and by state and local authorities. After HUD began this information collection, Congress included a provision in its fiscal year 2012 appropriations legislation that placed a specific cap on the use of Section 8 and Section 9 funds to pay the salaries of PHA officials. To obtain information that will help HUD determine PHA compliance with this and future legislation, and to achieve the same overall objectives of the original information collection, HUD is revising the data collection instrument to collect information on base salary, and bonus and incentive compensation, and the extent to which such payments are made with federal funds. Changes include obtaining data on total cash compensation paid for with Section 8 and Section 9 funds. The new elements replace several segments such as ''Reportable Compensation from PHA and Related Organizations'' and ''Contributions to Employee Benefit Plans and Deferred Compensation from the PHA and Related Organizations and ''Contributions to Employee Benefit Plans and Deferred Compensation from the PHA and Related Organizations''.

DATES: *Comments Due Date:* May 1, 2013

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0272) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Public Housing Authority Executive Compensation Information.

OMB Approval Number: 2577–0272.

Form Numbers: HUD–52725, HUD 52723.

Description of the need for the information and proposed use: Pursuant to PIH Notice 2011–48, HUD has been collecting information on the compensation provided by public housing authorities (PHAs) to their five most highly compensated employees, similar to the information that nonprofit organizations receiving federal tax exemptions are required to report to the IRS annually. Since PHAs receive significant direct federal funds, such compensation information has been collected by HUD to enhance oversight by HUD and by state and local authorities. After HUD began this information collection, Congress included a provision in its fiscal year 2012 appropriations legislation that placed a specific cap on the use of Section 8 and Section 9 funds to pay the salaries of PHA officials. To obtain information that will help HUD determine PHA compliance with this and future legislation, and to achieve the same overall objectives of the original information collection, HUD is revising the data collection instrument to collect information on base salary, and bonus and incentive compensation, and the extent to which such payments are made with federal funds. Changes include obtaining data on total cash compensation paid for with Section 8 and Section 9 funds. The new elements replace several segments such as ''Reportable Compensation from PHA and Related Organizations'' and ''Contributions to Employee Benefit Plans and Deferred Compensation from the PHA and Related Organizations and ''Contributions to Employee Benefit Plans and Deferred Compensation from the PHA and Related Organizations''.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting burden	4116	1		0.333	1,372

Total Estimated Burden Hours: 1,372.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: *March 27, 2013.*

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–07517 Filed 3–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–15]

Notice of Proposed Information Collection: Comment Request; Comprehensive Needs Assessment (CNA)

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 31, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Harry Messner, Project Manager, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: HUD is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Capital Needs Assessment (CNA).

OMB Control Number, if applicable: 2502–0505.

Description of the need for the information and proposed use: Collecting this information is required for compliance with the statute. In addition, this information allows the project owner and HUD to assess current project resources and determine future financial resources required to meet the needs of the project.

Agency form numbers, if applicable: None: CNAs are required to be prepared by qualified third party entities and provided to the loan originator or servicer for review. The originator or servicer then provides the completed document to the owner, who must provide a copy to HUD.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 72,720. The number of respondents is 1,818, the number of responses is 1,818, the frequency of response is on occasion, and the burden hour per response is 40.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 26, 2013.

Laura M. Marin,

Acting General Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–07513 Filed 3–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5693–C–01]

Privacy Act of 1974; Republication To Delete and Update Privacy Act System of Records Notifications; Correction

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a Correction to System of Records.

SUMMARY: On February 6, 2013, HUD issued a notice in the **Federal Register** entitled, ''Republication to Delete and Update Privacy Act System of Records Notifications''. Moreover, HUD inadvertently repeated in the ''Prefatory Statement of General Routine Uses'' two routine uses. This duplication was made in error and this notice corrects that error, and updates the total number of Prefatory Statements of General Routine Uses reported under that notice.

FOR FURTHER INFORMATION CONTACT: The Chief Privacy Officer, 451 Seventh Street SW., Room 4156, Washington, DC 20410, (202) 402–8073 (Attention: Capitol View Building, 4th Floor). (This is not a toll-free number.) A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Subsequent to the republication on February 6, 2013, HUD discovered that the Prefatory Statement of General Routine Uses inadvertently reported repeated information that HUD proposes to exclude from that publication. In addition, this notice updates and corrects the proposed number of Prefatory Statements of Routine Uses published for that notice to 17.

In conclusion, in the **Federal Register** on February 6, 2013, in FR Doc. 2013–02672, on page 8554, the second column, this notice removes the ''Action'' caption for routine use number 10: To appropriate Federal, state, local, tribal, or governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforcement of civil or criminal laws; and, routine use number 11: To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

Dated: March 21, 2013.

Jerry E. Williams,

Chief Information Officer.

[FR Doc. 2013–07522 Filed 3–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2013–N045: FXES11130800000–134–FF08E00000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Reviews of 56 Species in California and Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (Act), of 18 animal species and 38 plant species. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information that has become available since the last review for the species. In this notice, we also announce 5-year reviews that were completed for 27 species in California and Nevada between March 1, 2012, and January 31, 2013.

DATES: To ensure consideration, we are requesting submission of new information no later than May 31, 2013. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For how to submit information, see Request for Information and ''How Do I Ask Questions or Provide Information?'' in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information on a particular species, contact the appropriate person or office listed in the table in the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

Why do we conduct a 5-year review?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to *http://www.fws.gov/endangered/what-we-do/recovery-overview.html,* scroll down to ''Learn More about 5-Year Reviews,'' and click on our factsheet.

What information do we consider in our review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the Act); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for the species.

Which species are under review?

This notice announces our active review of the species listed in the table below.

Common name	Scientific name	Listing status	Where listed	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
ANIMALS						
Beetle, delta green ground.	*Elaphrus viridis*	Threatened	U.S.A. (CA)	45 FR 52807; 08/08/1980.	Josh Hull, Recovery Division Chief, 916–414–6600 (phone); *fw1sfo5year@ fws.gov* (email).	U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825.
Butterfly, bay checkerspot.	*Euphydryas editha bayensis.*	Threatened	U.S.A. (CA)	49 FR 45160; 11/15/1984.	Josh Hull (above).	
Butterfly, callippe silverspot.	*Speyeria callippe callippe.*	Endangered	U.S.A. (CA)	62 FR 64306; 12/05/1997.	Josh Hull (above).	
Butterfly, Myrtle's silverspot.	*Speyeria zerene myrtleae.*	Endangered	U.S.A. (CA)	57 FR 27848; 06/22/1992.	Josh Hull (above).	
Chub, Mohave tui	*Gila bicolor mohavensis = Siphaletes bicolor mohavensis.*	Endangered	U.S.A. (CA)	35 FR 16047; 10/13/1970.	Mike McCrary, Listing and Recovery Coordinator—Wildlife, 805–644–1766 (phone); *fw8vfwo5year@ fws.gov* (email).	U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.
Chub, Owens tui	*Siphateles bicolor snyderi = Gila bicolor snyderi.*	Endangered	U.S.A. (CA)	50 FR 31592; 09/05/1985.	Mike McCrary (above).	
Crayfish, Shasta	*Pacifastacus fortis*	Endangered	U.S.A. (CA)	53 FR 38460; 09/30/1988.	Josh Hull (above).	
Mountain beaver, Point Arena.	*Aplodontia rufa nigra.*	Endangered	U.S.A. (CA)	56 FR 64716; 12/12/1991.	John Hunter, Fish and Wildlife Biologist, 707–822–7201 (phone); *arcata@fws.gov* (email).	U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521.
Pupfish, Owens	*Cyprinodon radiosus.*	Endangered	U.S.A. (CA)	32 FR 4001; 03/11/1967.	Mike McCrary (above).	
Rail, light-footed clapper.	*Rallus longirostris levipes.*	Endangered	U.S.A. (CA), Mexico (Baja California).	34 FR 5034; 03/08/1969.	Bradd Baskerville-Bridges, 760–431–9440 (phone); *fw8cfwocomments@ fws.gov* (email).	U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011.
Salamander, desert slender.	*Batrachoseps aridus.*	Endangered	U.S.A. (CA)	38 FR 14678; 06/04/1973.	Bradd Baskerville-Bridges (above).	
Salamander, Santa Cruz long-toed.	*Ambystoma macrodactylum croceum.*	Endangered	U.S.A. (CA)	32 FR 4001; 03/11/1967.	Mike McCrary (above).	
Shrike, San Clemente loggerhead.	*Lanius ludovicianus mearnsi.*	Endangered	U.S.A. (CA)	42 FR 40682; 08/11/1977.	Bradd Baskerville-Bridges (above).	
Sparrow, San Clemente sage.	*Amphispiza belli clementeae.*	Threatened	U.S.A. (CA)	42 FR 40682; 08/11/1977.	Bradd Baskerville-Bridges (above).	
Springfish, Railroad Valley.	*Crenichthys nevadae.*	Threatened	Wherever found	51 FR 10857; 3/31/1987.	Ted Koch, Field Supervisor, 775–861–6300 (phone); *fw1nfwo_5yr@fws.gov* (email).	U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502.
Stickleback, unarmored threespine.	*Gasterosteus aculeatus williamsoni.*	Endangered	U.S.A. (CA)	35 FR 16047; 10/13/1970.	Mike McCrary (above).	
Trout, Lahontan cutthroat.	*Oncorhynchus clarkii henshawi.*	Threatened	Wherever found	40 FR 29863; 07/16/1975.	Ted Koch (above).	
Vole, Amargosa	*Microtus californicus scirpensis.*	Endangered	U.S.A. (CA)	49 FR 45160; 11/15/1984.	Mike McCrary (above).	

Scientific name	Common name	Listing status	Where listed	Final listing rule (Federal Register citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
PLANTS						
Acanthomintha ilicifolia.	San Diego thornmint.	Threatened	U.S.A. (CA), Mexico.	63 FR 54938; 10/13/1998.	Bradd Baskerville-Bridges (above).	
Acanthoscyphus (Oxytheca) parishii var. *goodmaniana.*	Cushenbury oxytheca.	Endangered	U.S.A. (CA)	59 FR 43562; 08/24/1994.	Bradd Baskerville-Bridges (above).	
Allium munzii	Munz's onion	Endangered	U.S.A. (CA)	63 FR 54975; 10/13/1998.	Bradd Baskerville-Bridges (above).	
Amsinckia grandiflora.	Large-flowered fiddleneck.	Endangered	U.S.A. (CA)	50 FR 19374; 05/08/1985.	Josh Hull (above).	
Astragalus albens	Cushenbury milk-vetch.	Endangered	U.S.A. (CA)	59 FR 43562; 08/24/1994.	Bradd Baskerville-Bridges (above).	
Astragalus brauntonii	Braunton's milk-vetch.	Endangered	U.S.A. (CA)	62 FR 4172; 12/01/1997.	Connie Rutherford, Listing and Recovery Coordinator—Plants, 805–644–1766 (phone); *fw8vfwo5year@fws.gov* (email).	U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.
Astragalus clarianus	Clara Hunt's milk-vetch.	Endangered	U.S.A. (CA)	62 FR 54791; 10/22/1997.	Josh Hull (above).	
Astragalus lentiginosus var. *piscinensis.*	Fish slough milk-vetch.	Endangered	U.S.A. (CA)	63 FR 53596, 06/10/1998.	Connie Rutherford (above).	
Astragalus phoenix	Ash Meadows milk-vetch.	Threatened	Wherever found	50 FR 20777; 05/20/1985.	Ted Koch (above).	
Astragalus tener var. *titi.*	Coastal dunes milk-vetch.	Endangered	U.S.A. (CA)	63 FR 43100; 08/12/1998.	Connie Rutherford (above).	
Camissonia benitensis.	San Benito evening-primrose.	Endangered	U.S.A. (CA)	50 FR 5755; 02/12/1985.	Connie Rutherford (above).	
Carex albida	White sedge	Endangered	U.S.A. (CA)	62 FR 54791; 10/22/1997.	Josh Hull (above).	
Centaurium namophilum.	Spring-loving centaury.	Threatened	Wherever found	50 FR 20777; 0/20/1985.	Ted Koch (above).	
Chamaesyce hooveri	Hoover's spurge	Threatened	U.S.A. (CA)	62 FR 14338; 03/26/1997.	Josh Hull (above).	
Chorizanthe pungens var. pungens.	Monterey spineflower.	Threatened	U.S.A. (CA)	59 FR 5499; 04/02/1994.	Connie Rutherford (above).	
Cirsium hydrophilum var. hydrophilum.	Suisun thistle	Endangered	U.S.A. (CA)	62 FR 61916; 11/20/1997.	Josh Hull (above).	
Clarkia speciosa var. *immaculata.*	Pismo clarkia	Endangered	U.S.A. (CA)	59 FR 64613; 12/15/1994.	Connie Rutherford (above).	
Clarkia springvillensis.	Springville clarkia	Threatened	U.S.A. (CA)	63 FR 49022; 09/14/1998.	Josh Hull (above).	
Cordylanthus maritimus subsp. *maritimus.*	Salt marsh bird's beak.	Endangered	U.S.A. (CA), Mexico (Baja California).	43 FR 44810; 09/29/1978.	Bradd Baskerville-Bridges (above).	
Cordylanthus mollis subsp. *mollis.*	Soft bird's-beak	Endangered	U.S.A. (CA)	62 FR 61916; 11/20/1997.	Josh Hull (above).	
Cordylanthus palmatus.	Palmate-bracted bird's-beak.	Endangered	U.S.A. (CA)	51 FR 23765; 04/01/1986.	Josh Hull (above).	
Deinandra (Hemizonia) conjugens.	Otay tarplant	Threatened	U.S.A. (CA), Mexico.	63 FR 54938; 10/13/1998.	Bradd Baskerville-Bridges (above).	
Dudleya abramsii subsp. *parva.*	Conejo dudleya	Endangered	U.S.A. (CA)	62 FR 4172; 01/29/1997.	Connie Rutherford (above).	
Erigeron parishii	Parish's daisy	Threatened	U.S.A. (CA)	59 FR 43562; 08/24/1994.	Bradd Baskerville-Bridges (above).	

Scientific name	Common name	Listing status	Where listed	Final listing rule (Federal Register citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
Eriogonum ovalifolium var. *vineum*.	Cushenbury buckwheat.	Endangered	U.S.A. (CA)	59 FR 43562; 08/24/1994.	Bradd Baskerville-Bridges (above).	
Eriogonum ovalifolium var. *williamsiae*.	Steamboat buckwheat.	Endangered	Wherever found	51 FR 24669; 07/08/1986.	Ted Koch (above).	
Eryngium constancei	Loch Lomond coyote-thistle.	Endangered	U.S.A. (CA)	51 FR 45904; 12/23/1986.	Josh Hull (above).	
Lilium occidentale	Western lily	Endangered	U.S.A. (CA, OR)	59 FR 42171; 08/17/1994.	Gary Falxa, Fish and Wildlife Biologist, 707–822–7201 (phone); *arcata@fws.gov* (email).	U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521.
Lilium pardalinum subsp. *pitkinense*.	Pitkin Marsh lily	Endangered	U.S.A. (CA)	62 FR 54791; 10/22/1997.	Josh Hull (above).	
Navarretia fossalis	Spreading navarretia.	Threatened	U.S.A. (CA), Mexico (Baja California).	63 FR 54975; 10/13/1998.	Bradd Baskerville-Bridges (above).	
Navarretia leucocephala subsp. *plieantha*.	Many-flowered navarretia.	Endangered	U.S.A. (CA)	62 FR 33029; 06/18/1997.	Josh Hull (above).	
Orcuttia pilosa	Hairy Orcutt grass	Endangered	U.S.A. (CA)	62 FR 14338; 03/26/1997.	Josh Hull (above).	
Parvisedum leiocarpum.	Lake County stonecrop.	Endangered	U.S.A. (CA)	62 FR 33029; 06/18/1997.	Josh Hull (above).	
Physaria (Lesquerella) kingii subsp. *bernardina*.	San Bernardino Mountains bladderpod.	Endangered	U.S.A. (CA)	59 FR 43562; 08/24/1994.	Bradd Baskerville-Bridges (above).	
Potentilla hickmanii	Hickman's potentilla.	Endangered	U.S.A. (CA)	63 FR 43100; 08/08/1998.	Connie Rutherford (above).	
Sidalcea oregana subsp. *valida*.	Kenwood Marsh checker-mallow.	Endangered	U.S.A. (CA)	62 FR 54791; 10/22/1997.	Josh Hull (above).	
Thysanocarpus conchuliferus.	Santa Cruz Island fringepod.	Endangered	U.S.A. (CA)	61 FR 40954; 07/31/1997.	Connie Rutherford (above).	
Tuctoria mucronata	Solano grass	Endangered	U.S.A. (CA)	43 FR 44810; 09/28/1978.	Josh Hull (above).	

Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See ''What Information Do We Consider in Our Review?'' for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. You may also direct questions to those contacts. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

Public Availability of Submissions

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.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

Completed 5-Year Reviews

We also take this opportunity to inform the public of 5-year reviews that we completed between March 1, 2012, and January 31, 2013, for 27 species in California and Nevada. Reviews for these 27 species can be found at *http://www.fws.gov/endangered/species/index.html.*

Common name	Scientific name	Lead fish and wildlife office	Contact
ANIMALS			
Butterfly, Behren's silverspot	*Speyeria zerene behrensii*	Arcata	Kathleen Brubaker, 707–822–7201 (phone).
Dace, Clover Valley speckled	*Rhinichthys osculus oligoporus*	Nevada	Ted Koch, 775–861–6300 (phone).
Dace, desert	*Eremichthys acros*	Nevada	Ted Koch (above).
Fairy shrimp, Conservancy	*Branchinecta conservatio*	Sacramento	Josh Hull, 916–414–6600 (phone).
Fairy shrimp, longhorn	*Branchinecta longiantenna*	Sacramento	Josh Hull (above).
Frog, mountain yellow-legged	*Rana muscosa*	Carlsbad	Bradd Baskerville-Bridges, 760–431–9440 (phone).
Lizard, Island night	*Xantusia riversiana*	Carlsbad	Bradd Baskerville-Bridges (above).
Skipper, Carson wandering	*Pseudocopaeodes eunus obscurus*	Nevada	Ted Koch (above).
Snake, giant garter	*Thamnophis gigas*	Sacramento	Josh Hull (above).
Springfish, Hiko White River	Crenichthys baileyi grandis	Nevada	Ted Koch (above).
Springfish, White River	Crenichthys baileyi baileyi	Nevada	Ted Koch (above).
Woodrat, riparian	*Neotoma fuscipes riparia*	Sacramento	Josh Hull (above).
PLANTS			
Arctostaphylos hookeri var. *ravenii*	Presidio manzanita	Sacramento	Josh Hull (above).
Brodiaea pallida	Chinese Camp brodiaea	Sacramento	Josh Hull (above).
Castilleja affinis ssp. *neglecta*	Tiburon paintbrush	Sacramento	Josh Hull (above).
Castilleja grisea	San Clemente Island Indian paintbrush	Carlsbad	Bradd Baskerville-Bridges (above).
Delphinium bakeri	Baker's larkspur	Sacramento	Josh Hull (above).
Dudleya traskiae	Santa Barbara Island liveforever (dudleya).	Sacramento	Josh Hull (above).
Lessingia germanorum var. *germanorum.*	San Francisco lessingia	Sacramento	Josh Hull (above).
Lotus dendroideus var. *traskiae*	San Clemente Island broom (lotus)	Carlsbad	Bradd Baskerville-Bridges (above).
Malacothamnus clementinus	San Clemente Island bush-mallow	Carlsbad	Bradd Baskerville-Bridges (above).
Malacothamnus fasciculatus var. *nesioticus.*	Santa Cruz Island bush-mallow	Ventura	Connie Rutherford, 805–644–1766 (phone).
Sibara filifola	Santa Cruz Island rock-cress	Carlsbad	Bradd Baskerville-Bridges (above).
Sidalcea keckii	Keck's checkermallow	Sacramento	Josh Hull (above).
Trifolium amoenum	Showy Indian clover	Sacramento	Josh Hull (above).
Verbena californica	Red Hills vervain	Sacramento	Josh Hull (above).
Monardella viminea	Willowy monardella	Carlsbad	Bradd Baskerville-Bridges (above).

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 26, 2013.

Alexandra Pitts,

Regional Director, Pacific Southwest Region.

[FR Doc. 2013–07495 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–SATD–2013–N046; FXSC14300900000–134–FF09S00000]

National Fish, Wildlife, and Plants Climate Adaptation Strategy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service), along with the National Oceanic and Atmospheric Administration (NOAA, Department of Commerce), State, and tribal partners (co-leaders), announce the availability of the final *National Fish, Wildlife, and Plants Climate Adaptation Strategy* (NFWPCAS or *Strategy*). The purpose of the *Strategy* is to inspire and enable natural resource professionals and other decision makers to take action to conserve the nation's fish, wildlife, plants, and ecosystem functions, as well as the human uses and values these natural systems provide, in a changing climate. Input from public comments and workshops has been incorporated in the development of this final document. The *Strategy* is available at *http://www.wildlifeadaptationstrategy.gov/strategy.php.*

ADDRESSES: The *Strategy* and the *Strategy* Highlights brochure are both available for download at *http://www.wildlifeadaptationstrategy.gov/strategy.php.* Alternatively, you may request a hardcopy of a *Strategy* Highlights brochure by writing via U.S. mail to the Office of the Science Advisor, Attn: National Fish, Wildlife, and Plants Climate Adaptation Strategy, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mark Shaffer, Office of the Science Advisor, at 703–358–2603 (telephone) or *wildlifeadaptationstrategy@fws.gov* (email), or via the Strategy Web site at *http://www.wildlifeadaptationstrategy.gov/contact-us.php.* If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Service, in cooperation with its co-leaders—NOAA, State agencies, and tribal partners—announces publication of the final National Fish, Wildlife, and Plants Climate Adaptation Strategy (NFWPCAS or *Strategy*).

The adverse impacts of climate change transcend political and administrative boundaries. No single entity or level of government can safeguard wildlife and society against

the effects of climate change. This *Strategy* presents a unified approach—reflecting shared principles and science-based practices—for reducing the negative impacts of climate change on fish, wildlife, plants, our natural resource heritage, and the communities and economies that depend on them. The *Strategy* provides a basis for sensible actions that can be taken now, in spite of the uncertainties that exist about the precise impacts of climate change. It also provides guidance about what further actions are most likely to promote natural resource adaptation to climate change, and describes mechanisms that will foster collaboration for effective action among all levels of government, conservation organizations, and private landowners.

I. Background

The climate is changing and these changes are already impacting the nation's valuable natural resources and the people, communities, and economies that depend on them. According to the U.S. Global Change Research Program, there have been significant changes in U.S. climate over the past 50 years, including increases in average temperatures, shifts in rainfall and storm patterns, increases in wildfires, more frequent water shortages, rising sea levels, loss of sea ice, ocean acidification, and coastal flooding and erosion. Given the magnitude of the observed changes in climate, it is not surprising that fish, wildlife, and plant resources in the United States and around the world are already being affected. The impacts can be seen everywhere from working landscapes to wilderness areas far from human habitation. As the climate continues to change over the next century, so too will the effects on species, ecosystems, and their functions. Furthermore, climate-induced changes are also likely to exacerbate existing stressors, such as habitat loss and fragmentation, putting additional pressure on our nation's valued living resources.

Rapid warming and other climate changes are already threatening many of the benefits and services that natural systems provide to people, creating new challenges for human health, infrastructure, agriculture, transportation, and energy supplies that depend on natural system services in a variety of ways. At risk are jobs, income, and businesses; clean air and water; protection from floods and erosion; hunting and fishing; wildlife-related tourism and recreation; food and forest production; and, ultimately, our health and quality of life.

Most simply, climate adaptation means helping people and natural systems prepare for and cope with the effects of a changing climate. Climate adaptation is an essential complement to climate change mitigation, or efforts to decrease the rate and extent of climate change by reducing greenhouse gas emissions or enhancing carbon uptake and storage. Integrating adaptation planning into existing efforts and coordinating these efforts among government and nongovernment sectors can help decrease the risks and impacts of climate change on our natural resources, communities, and economies. This *Strategy* outlines the key steps needed to advance this coordinated response across Federal, State, tribal, and local partners through existing and new mechanisms.

II. Strategy Development

Over the past decade, there have been increasing numbers of calls for action by government and nongovernmental entities to better understand, prepare for, and address the impacts of climate change on natural resources and the communities that depend on those resources. For example, in 2007 the U.S. Government Accountability Office released a study entitled *Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources,* recommending that guidance and tools be developed to help Federal natural resource managers incorporate and address climate change into their resource management efforts. In 2008, the U.S. Global Change Research Program released the report *Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources,* which called for and identified a variety of new approaches to natural resource management to increase resiliency and adaptation of ecosystems and resources.

In 2009, Congress asked the Department of the Interior (DOI) and the White House Council on Environmental Quality (CEQ) to develop a national, government-wide climate adaptation strategy for fish, wildlife, plants, and related ecological processes. Language in the Conference Report for the Fiscal Year 2010 Interior, Environment and Related Agencies Appropriations Act (House Report 111–316, pages 76–77) urged CEQ and DOI to ''develop a national, government-wide strategy to address climate impacts on fish, wildlife, plants, and associated ecological processes'' and ''provide that there is integration, coordination, and public accountability to ensure efficiency and avoid duplication.'' In addition, CEQ's Interagency Climate Change Adaptation Task Force supported this request and called for the development of a climate adaptation strategy for fish, wildlife, and plants in its 2010 Progress Report to the President (*http://www.whitehouse.gov/sites/default/files/microsites/ceq/Interagency-Climate-Change-Adaptation-Progress-Report.pdf*).

In the fall of 2010, the U.S. Fish and Wildlife Service and CEQ invited NOAA and State wildlife agencies (with the New York Division of Fish, Wildlife, and Marine Resources as the State agencies' lead representative) to co-lead the development of the *Strategy.* The Association of Fish and Wildlife Agencies also provided support and representation of the States' interests. In addition to the Federal and State partners, the Great Lakes Indian Fish and Wildlife Commission provided staff support to the *Strategy* Management Team.

Initial public outreach during 2009 and 2010 contributed toward developing the following set of key principles to guide the effort as it moved forward:

- Build a national framework for cooperative response.
- Foster communication and collaboration across government and non-government entities.
- Engage the public.
- Adopt a landscape/seascape-based approach that integrates best-available science and adaptive management.
- Integrate strategies for natural resources adaptation with those of other sectors.
- Focus actions and investments on natural resources of the United States and its Territories.
- Identify critical scientific and management needs.
- Identify opportunities to integrate climate adaptation and mitigation efforts.
- Act now.

In late 2010, a diverse group of Federal, State, and tribal agencies were asked to participate as members of an intergovernmental Steering Committee, to provide high-level advice and support for development of the *Strategy.* The Steering Committee includes representatives from 15 Federal agencies with management authorities for fish, wildlife, plants, or habitat, as well as representatives from 5 State fish and wildlife agencies and two intertribal fish and wildlife commissions. The Steering Committee charged a small Management Team, made up of representatives of the Service, NOAA, Association of Fish and Wildlife Agencies (on behalf of the States), the Great Lakes Indian Fish and

Wildlife Commission, and the Bureau of Indian Affairs, to oversee the day-to-day development of the *Strategy.* The Management Team was asked to engage with a diverse group of stakeholders, as well as to coordinate and communicate across agencies and departments.

In March of 2011, the Management Team invited more than 90 natural resource professionals (both researchers and managers) from Federal, State, and tribal agencies to form five Technical Teams based around major U.S. ecosystems (marine, coastal, inland waters, forest, and combined grasslands/shrublands/deserts/tundra systems). These Teams, which were co-chaired by Federal, State, and tribal representatives, worked approximately 7 months to provide technical information on climate change impacts and to collectively develop strategies and actions for adapting to climate change.

The co-leaders requested public input for the development of the *Strategy* in a May 24, 2011, notice of intent in the **Federal Register** (76 FR 30193). After this initial input was incorporated along with the material developed by the Technical Teams, an initial draft of the *Strategy* was circulated in November 2011 to selected Federal and State agencies for comment and to the tribes for consultation.

After incorporating agency input, the Management Team released a public review draft on January 20, 2012 (77 FR 2996), for a 45-day public comment period. Comments received during the public comment period have now been compiled, analyzed, considered, and, where necessary or appropriate, addressed. This notice of availability announces the final *Strategy.*

Please visit the *Strategy* Web site at *http://www.wildlifeadaptationstrategy.gov* to download a copy of the *Strategy* or a copy of the *Strategy* Highlights brochure, or to obtain additional background on the development of the *Strategy.*

III. Public Involvement

Public involvement is critical for the development of a robust and relevant response to the impacts of climate change. Particularly valuable to the effort are public guidance on priorities, recommendations for approaches, and suggestions based on local knowledge and experience.

Initial outreach and planning for the Strategy began in 2009 and early 2010, with a number of listening and engagement sessions, as well as several Conservation Leadership Forums. More information about past engagement efforts is available at *http://www.wildlifeadaptationstrategy.gov/engagement.php.*

During the public comment period, several public workshops were held around the country, in addition to two online ''webinars.'' These workshops and webinars provided interested members of the public the opportunity to learn more about the development and goals of the *Strategy,* ask questions, and provide their public comments verbally or in writing. Additional workshops focused on the tribal community were also held across the country and remotely through a webinar. For a complete list of workshops, please visit *http://www.wildlifeadaptationstrategy.gov/public-workshops.php.*

IV. Response to Public Comments

During the public comment period between January 20 and March 5, 2012, more than 55,000 comments were received. The bulk of these were general comments of support submitted as mass mailing comments through campaigns organized by several conservation-focused non-governmental organizations. The remaining 1,400 unique comments were addressed by the NFWPCAS Management Team. Public comments submitted during the 2012 comment period are available on the *Strategy* Web site, *http://www.wildlifeadaptationstrategy.gov/public-comments.php.* The following is a brief description of the types of comments received and how they were handled. Comments addressed the following subjects.

Positive and Supportive Comments

The Management Team received 53,600 positive comments that were of a form letter nature. In addition, 78 unique comments that were solely positive and supportive regarding the *Strategy* were received. Many comments referred to the overall effort of the *Strategy* as being a needed and necessary step towards climate adaptation. Others referred to specific strategies, actions, or points that were supported by the commenter. There were also commenters that offered their help in implementing the *Strategy* and moving forward with partnerships. There were no major changes made to the document in response to these comments.

Comments Relating to Integration and Implementation of the Strategy

The Management Team received 162 unique comments relating to implementation of the *Strategy.* These ranged from concerns about funding and developing new programs to concerns over jurisdictional authority and management capabilities. The *Strategy* was intended to be a framework for coordinated action rather than a prescriptive action plan. The shared jurisdiction among States, Federal agencies, and tribes necessitates a collaborative approach both to drafting and then implementing the *Strategy.* The Management Team revised the discussion of implementation to clarify the role of the proposed inter-governmental coordinating body for evaluation and implementation for the Strategy going forward. Many of the comments concerned integration and coordination with other existing efforts. The Management Team highlighted those efforts, as well as listed related efforts in the *Strategy* Appendix.

Comments Relating to Tribal, Native, and Indigenous Peoples

The Management Team received 86 unique comments relating to tribal, native, and indigenous peoples in the United States. These comments included concerns about insufficient discussion of climate change impacts on indigenous peoples and traditional ecological knowledge possessed by tribal, native, and indigenous peoples. In response to these comments, the Management Team added more information regarding climate change impacts on tribal, native, and indigenous peoples as they relate to fish, wildlife, and plants. The Management Team also added specific information on traditional ecological knowledge and the use of tribal, native, and indigenous peoples' lands as potential monitoring sites.

Comments Relating to Climate Change Impacts Both Globally and on Specific Ecosystems

The Management Team received 129 unique comments relating to climate change impacts, including requests for discussion of additional specific impacts, concerns that impacts are covered to a degree that is too in-depth, and challenges to the assertions made in the *Strategy.* The *Strategy* bases its information on impacts on the latest National Climate Assessment, released by the U.S. Global Change Research Program in 2009, which has undergone review by multiple agencies in accordance with the Information Quality Act (Pub. L. 106–554). Discussion of additional impacts to ecosystems was added if the addition was substantive and maintained balanced attention to all ecosystems. The Management Team felt that a strong section covering climate impacts to

ecosystems was important to provide context for the later section on adaptation strategies.

Comments Relating to Scientific Information, Tools, and Accuracy

The Management Team received 116 unique comments relating to scientific information, tools, and accuracy. These comments ranged from suggestions for additional or substitute references to concerns about uncertainty and consensus surrounding anthropogenic influence on the climate system. While the *Strategy* acknowledges the role of humans, it presents observed changes in species' ranges and environmental conditions and provides adaptation strategies regardless of the underlying cause. The draft *Strategy* has undergone a review in accordance with the Information Quality Act and a review by Federal, State, and tribal agencies. References were changed or added only to correct errors or if they substantially added to the quality of document, or if they clarified the discussion of a specific topic.

Comments Regarding Existing Stressors

The Management Team received 82 unique comments regarding existing stressors on fish, wildlife, plants, and their related habitats. The majority of these comments encouraged further discussion of invasive species in the *Strategy.* The Management Team clarified the definition of invasive species and urged consideration of the potential for facilitation of invasive species movement through corridors. Based on comments, the Management Team added an additional action within Strategy 7.3 that explicitly addresses invasive species. Strategy 7.4 was also added to address the need for reduction of destructive capture practices, illegal trade, and over-harvesting.

Comments Regarding the Structure, Leveling, and Prioritization

The Management Team received 153 unique comments regarding the structure and prioritization of the *Strategy.* In response, the Management Team ensured that all actions and items in the Progress Check Lists progressed in a logical order and revised or repositioned items as needed. The Management Team also clarified that the Check Lists are not comprehensive. There were also several comments encouraging prioritization throughout the *Strategy.* The strategies and actions are not ordered according to their priority, nor does the Implementation section identify a prioritized list of what to pursue. The Management Team decided that priorities should and will ultimately be decided by the implementation body.

Comments Relating to the Clarification and Consistent Use of Terms

The Management Team received 38 unique comments on the need to clarify or be consistent with terms used in the *Strategy.* In particular, definitions of ''resilience,'' ''restoration,'' and ''invasive species'' garnered many comments. Based on the input received and discussions within the Management Team, the terms were further discussed in the text, better defined in the Glossary (Appendix B), or both, and checked for consistency throughout the *Strategy.*

Comments Unrelated to or Outside the Scope of the Strategy

The Management Team received 163 unique comments that fell outside the scope of the *Strategy's* purpose. These comments included concerns over a lack of emphasis on mitigation of greenhouse gases, changes and references to the ecosystem background papers, and many other considerations that were not the main focus of the *Strategy.* The Management Team included further information on the carbon capture benefits provided by ecosystems. However, though climate change mitigation is important, the main focus of the *Strategy* is climate adaptation for fish, wildlife, and plants. Public comment on the ecosystem background papers was not solicited as part of the public comment period; therefore, no changes were made in response to comments received regarding the ecosystem background papers. These papers were developed as source material for the *Strategy,* but are not formal appendices to the *Strategy.* Comments that provided background material on climate change mitigation and adaptation were reviewed; however, many were outside the scope of the document. No changes were made in response to comments outside the scope of the *Strategy.*

Comments of an Editorial or Opinion-Based Nature

The Management Team received 270 unique comments that were of an editorial or opinion-based nature. These comments were taken into account during review. The majority of comments of this nature required no change to the document; however, minor changes were made to the *Strategy* in response where necessary, given the purpose and scope of the document.

V. Authority

Conference Report for the Interior, Environment and Related Agencies Appropriations Act, 2010.

Dated: March 20, 2013.

Gabriela Chavarria,

Science Advisor to the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–07507 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2013–N069; 40120–1112–0000–F2]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below, by May 1, 2013.

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: David Dell, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: David Dell, Permit Coordinator, telephone 404–679–7313; facsimile 404–678–7081.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or via electronic mail (email) to: *permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to the Fish and Wildlife Service office listed above (see **ADDRESSES**).

Before including your address, telephone number, email address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit Application Number: TE–94704A

Applicant: Dorothy Brown, Candler, North Carolina

Applicant requests authorization to take (capture, mark, apply transmitters, track, survey, and collect tissues) Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*), and bog turtle (*Clemmys muhlenbergii*) for the purpose of conducting presence/absence surveys and assisting in species recovery efforts. These activities may be conducted throughout the States of Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Kentucky, Virginia, Maryland, West Virginia, Indiana, Ohio, Arkansas, Missouri, and Illinois.

Permit Application Number: TE–97394A

Applicant: Zachary Couch, Pleasureville, Kentucky

Applicant requests authorization to take (capture, mark, apply transmitters, track, survey, and collect tissues) Indiana bat (*M. sodalis*), gray bat (*M. grisescens*), and Virginia big-eared bat (*C. t. virginianus*), for the purpose of conducting presence/absence surveys and assisting in species recovery efforts. These activities may be conducted throughout Kentucky.

Permit Application Number: TE–97999A

Applicant: National Park Service, Buck Island Reef National Monument, Christiansted, Virgin Islands

Applicant requests authorization to take (capture, handle, mark, track, and survey) the St. Croix ground lizard (*Ameiva polops*) for the purpose of conducting presence/absence surveys and assisting in species recovery efforts. These activities will be conducted in Buck Island Reef National Monument, St. Croix, U.S. Virgin Islands.

Permit Application Number: TE–96635A

Applicant: David Thomas, Austin, Texas

Applicant requests authorization to take (capture, handle, and survey) pallid sturgeon (*Scaphirhynchus albus*), Gulf sturgeon (*Acipenser oxyrinchus desotoi*), Alabama shad (*Alosa alabamae*), pearl darter (*Percina aurora*), fat pocketbook (*Potamilus capax*), inflated heelsplitter (*Potamilus inflatus*), Louisiana pearlshell (*Margaritifera hembeli*), pink mucket (*Lampsilis abrupta*), and rabbitsfoot (*Quadrula cylindrica cylindrica*) for the purpose of conducting presence/absence surveys and assisting in species recovery efforts. These activities will be conducted in Louisiana.

Permit Application Number: TE–94669A

Applicant: Toledo Zoological Gardens, Toledo, Ohio

The applicant requests authorization to take the Virgin Islands boa (*Epicrates monensis granti*) for the purpose of developing a conservation breeding program and reintroduction to the wild. This activity will occur in Puerto Rico.

Permit Application Number: TE–105626

Applicant: Rex Roberg, Cabot, Arkansas

The applicant requests authorization to take (capture, handle, release) American burying beetle (*Nicrophorus americanus*) for the purpose of conducting presence/absence surveys and assisting in species recovery efforts. These activities will be conducted in Oklahoma and Arkansas.

Permit Application Number: TE–97308A

Applicant: John Harris, Scott, Arkansas

The applicant requests authorization to take (capture, handle, tissue sampling, release) 18 species of freshwater mussels for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of each species: Ouachita rock pocketbook (*Arkansia wheeleri*), spectaclecase (*Cumberlandia monodonta*), fanshell (*Cyprogenia stegaria*), Curtis pearlymussel (*Epioblasma florentina curtisii*), snuffbox (*E. triquetra*), turgid blossom (*E. turgidula*), pink mucket (*Lampsilis abrupta*), Arkansas fatmucket (*Lampsilis powellii*), Neosho mucket (*L. rafinesqueana*), speckled pocketbook (*L. streckeri*), scaleshell (*Leptodea leptodon*), Louisiana pearlshell (*Margaritifera hembeli*), ring pink (*Obovaria retusa*), sheepnose (*Plethobasus cyphyus*), rough pigtoe (*Pleurobema plenum*), fat pocketbook (*Potamilus capax*), rabbitsfoot (*Quadrula cylindrica cylindrica*), and winged mapleleaf (*Q. fragosa*).

Dated: March 21, 2013.

Kenneth A. Garrahan,

Acting Regional Director.

[FR Doc. 2013–07497 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000 L13100000 DT0000 LXSIOSHL0000]

Notice of Availability of Approved Land Use Plan Amendments/Record of Decision for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) announces the availability of the Approved Land Use Plan Amendments/Record of Decision (ROD) for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the BLM in Colorado, Utah, and Wyoming. The BLM Principal Deputy Director signed the ROD on March 22, 2013, which constitutes the final decision of the BLM and makes the Approved Plan Amendments effective immediately.

ADDRESSES: The ROD/Approved Plan Amendments document is available now electronically on the following Web site: *http://ostseis.anl.gov.* Copies of the ROD/Approved Plan Amendments will be available after April 1, 2013, upon request from the BLM Office locations listed below. Copies of the ROD will be available after April 1, 2013, for public inspection at the same BLM Office locations:

Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215.
Northwest District Office, 2815 H Road, Grand Junction, CO 81506.
White River Field Office, 220 East Market Street, Meeker, CO 81641.
Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652.
Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, UT 84101.
Green River District Office, 170 South 500 East, Vernal, UT 84078.
Price Field Office, 125 South 600 West, Price, UT 84501.
Color Country District Office, 176 East D.L. Sargent Drive, Cedar City, UT 84721.
Richfield Field Office, 150 East 900 North, Richfield, UT 84701.
Canyon Country District Office, 82 East Dogwood, Moab, UT 84532.
Monticello Field Office, 365 North Main, Monticello, UT 84535.
Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009.
High Desert District Office, 280 Highway 191 North, Rock Springs, WY 82901.
Kemmerer Field Office, 312 Highway 189 North, Kemmerer, WY 83101.
Rawlins Field Office, 1300 North Third, Rawlins, WY 82301.

FOR FURTHER INFORMATION CONTACT: Sherri Thompson, BLM Project Manager, at 303–239–3758, (*sthompso@blm.gov*), Bureau of Land Management, 2850 Youngfield Street, Lakewood, CO 80215 or Mitchell Leverette, BLM Division Chief, Solid Minerals, at 202–912–7113, (*mleveret@blm.gov*), Bureau of Land Management, 20 M Street SE., Washington, DC 20003. 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 individuals 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 individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The decision in the ROD selects a modified version of Alternative 2(b), the proposed plan in the Final Oil Shale and Tar Sands Programmatic Environmental Impact Statement (EIS), as the Approved Land Use Plan Amendments, which would amend 10 land use plans in Colorado, Utah, and Wyoming to make approximately 679,000 acres of lands containing oil shale resources open for application for future leasing and development and approximately 132,000 acres open for application for future leasing and development of tar sands.

The Environmental Protection Agency published a Notice of Availability for the Final Programmatic EIS in the **Federal Register** on November 9, 2012 (77 FR 67362), initiating the BLM's 30-day protest period on the Proposed Plan Amendments for oil shale and tar sands allocation. The protest period closed on December 10, 2012. Eighteen protests were received; protests came from local governments, the State of Utah, industry, industry interest groups, environmental groups, and an individual. The BLM has resolved all valid protest issues.

The BLM has made minor modifications and editorial clarifications to the Approved Plan Amendments. These modifications provided further clarification of some of the decisions.

Authority: 40 CFR 1506.6.

Michael D. Nedd,

Assistant Director, Minerals and Realty Management.

[FR Doc. 2013–07452 Filed 3–29–13; 8:45 am]

BILLING CODE 4210–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT9223–13–L13200000–EL0000, UTU–89454]

Notice of Invitation to Participate; Coal Exploration License Application UTU–89454, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested qualified parties are hereby invited to participate with Ark Land Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in Sevier County, Utah.

DATES: The notice of invitation to participate in this coal exploration license was published, once each week for 2 consecutive weeks in the *Richfield Reaper* (beginning the last week of December 2012), and by virtue of this announcement in the **Federal Register**. Any person seeking to participate in this exploration program must send written notice to the BLM and Ark Land Company, as provided in the **ADDRESSES** section below, no later than May 1, 2013.

ADDRESSES: Copies of the exploration plan are available for review from 7:45 a.m. to 4:30 p.m. Monday through Friday, excluding Federal holidays, (serialized under the number of UTU–89454) in the public room of the BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, UT 84101.

The written notice to participate in the exploration program should be sent to the following addresses: Bureau of Land Management, Utah State Office, Division of Lands and Minerals, Attn: Stan Perkes, 440 West 200 South, Suite 500, Salt Lake City, UT 84101 and Ark Land Company, c/o Sufco Mine, Attn: Mark Bunnell, 597 South SR 24, Salina, UT 84654.

FOR FURTHER INFORMATION CONTACT: Stan Perkes, Mining Engineer, at 801–539–4036 or by email: *sperkes@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 purpose of the exploration program is to gain additional geologic knowledge of the coal underlying the exploration area for the purpose of assessing the coal resources. The exploration program is fully described and is being conducted pursuant to an exploration license and plan approved by the BLM. The exploration plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate. The area to be explored includes the following-described lands in Sevier County, Utah:

Salt Lake Meridian, Utah

T. 21 S., R. 4 E., SLM, Utah
Sec. 14, W½NE¼, E½NW¼, SW¼NW¼, W½SW¼;
Sec. 15, S½NE¼, SE¼.
Containing 520.00 acres.

The Federal coal within the above-described lands is currently not leased

for development of Federal coal resources.

Authority: 43 CFR 3410.2–1(c)(1).

Jenna Whitlock,

Associate State Director.

[FR Doc. 2013–07457 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT9223–13–L13200000–EL000, UTU–89492]

Notice of Invitation to Participate In Coal Exploration License Application UTU–89492, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: All interested-qualified parties are hereby invited to participate with Wasatch Natural Resources on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in Carbon County, Utah.

DATES: The notice of invitation to participate in this coal exploration license was published once each week for two consecutive weeks, in the *Sun Advocate* (beginning the last week of January 2013), and by virtue of this announcement in the **Federal Register**. Any person seeking to participate in this exploration program must send written notice to both the Bureau of Land Management (BLM) and Wasatch Natural Resources, as provided in the **ADDRESSES** section below until no later than May 1, 2013.

ADDRESSES: Copies of the exploration license and plan are available for review from 7:45 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays (serialized under the number of UTU–89492) in the public room of the BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345.

The written notice to participate in the exploration program should be sent to Roger Bankert, Bureau of Land Management, Utah State Office, Division of Lands and Minerals, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345 and to Gregory Hunt, Wasatch Natural Resources, 299 South Main Street, Suite 1300, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Stan Perkes by telephone 801–539–4036, or by email: *sperkes@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 for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The exploration activities will be performed pursuant to the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 201(b), and to the regulations at 43 CFR Part 3410. The purpose of the exploration program is to gain additional geologic knowledge of the coal underlying the exploration area for the purpose of assessing the coal resources. The exploration program is fully described and is being conducted pursuant to an exploration license and plan approved by the BLM. The exploration plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate. The area to be explored includes the following-described lands in Carbon County, Utah:

Salt Lake Meridian, Utah

T. 13 S., R. 7 E.,
- Sec. 2, lots 1 through 7 inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 3, lots 1, 2, 5 through 8 inclusive, SW¼NE¼, NW¼SE¼;
- Sec. 10, all;
- Sec. 11, all;
- Sec. 14, all;
- Sec. 15, all.
- Containing 3,507.84 acres.

The Federal coal within the above-described lands is currently not leased for development of Federal coal resources.

Authority: 43 CFR 3410.2–1(c)(1).

Jenna Whitlock,

Associate State Director.

[FR Doc. 2013–07456 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO921000–L51100000–GA0000–LVEMC11CC140, COC–74813]

Notice of Competitive Coal Lease Sale COC–74813, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: Notice is hereby given that certain Federal coal reserves (Red Wash Tracts 1 and 2) in Moffat and Rio Blanco Counties, Colorado, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended.

DATES: The lease sale will be held at 10 a.m. on May 29, 2013. The sealed bid must be submitted on or before 9:30 a.m. on May 29, 2013.

ADDRESSES: The lease sale will be held in the Fourth Floor Conference Room of the Bureau of Land Management (BLM) Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215. Sealed bids must be submitted to the Cashier, BLM Colorado State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Kurt Barton, Land Law Examiner, at 303–239–3714, or *kbarton@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: This coal lease sale is being held in response to a lease by application (LBA) filed by Blue Mountain Energy, Inc. The Federal coal reserves to be offered consist of all reserves recoverable by underground mining methods in the following described lands located in Moffat and Rio Blanco counties, Colorado:

Sixth Principal Meridian

T. 3 N., R. 101 W.,
- Sec. 17, SW¼SW¼, and S½SE¼SW¼;
- Sec. 18, lots 3 and 4, S½NE¼SW¼, SE¼SW¼, S½NE¼SE¼, S½NW¼SE¼, and S½SE¼;
- Sec. 19, lot 1, NE¼, NE¼NW¼, N½SE¼NW¼, and N½NW¼SE¼;
- Sec. 20, NE¼, N½NW¼NW¼, and N½NE¼NW¼;
- Sec. 21, W½NE¼, SE¼NE¼, NW¼, and N½SE¼;
- Sec. 22, S½NW¼, SE¼SW½, N½SW¼, and SE¼;
- Sec. 23, S½SW¼, and S½SE¼;
- Sec. 26, N½, SW¼, N½ SE¼, and SW¼SE¼;
- Sec. 27, E½, E½NW¼, E½SW¼, and SW¼SW¼;
- Sec. 34, N½NE¼, and NW¼;
- Sec. 35, NW¼NE¼, and N½NW¼.
- Containing 3,154.76 acres more or less.

The tracts contain an estimated 21.3 million tons of recoverable coal reserves. The underground minable coal is ranked as C bituminous coal. The estimated coal quality on an as-received basis for the tracts is as follows:

British thermal unit (BTU)	8,000–10,600 BTU/lb.
Volatile Matter	23.8–35.93
Moisture	10.0–15.0
Fixed Carbon	29.87–46.9
Sulfur Content	0.30–0.95
Ash Content	7.0–20.0

The tracts will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the fair market value of the tract. The minimum bid for the tracts is $100 per acre or fraction thereof. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

The sealed bids should be sent by certified mail, return-receipt requested, or be hand delivered to the Cashier, BLM Colorado State Office, at the address given above and clearly marked ''Sealed Bid for COC–74813 Coal Sale—Not to be opened before 10 a.m., 10 a.m., May 29, 2013.''

The cashier will issue a receipt for each hand-delivered bid. Bids received after 9:30 a.m. May 29, 2013 will not be considered. If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking, sealed-bids must be submitted within 15 minutes following the sale official's announcement at the sale that identical high bids have been received. Prior to lease issuance, the high bidder, if other than the applicant, must pay the BLM the cost recovery fees in the amount of $50,969.80 in addition to all processing costs the BLM incurs after the date of this sale notice (43 CFR 3473.2).

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States in the amount of 8 percent of the value of coal mined by underground methods.

Bidding instructions for the LBA tracts offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale and available from the BLM Colorado State Office at the address above. Case file documents, COC–74813, are available for inspection at the BLM Colorado State Office Public Room.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–07458 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957400–13–L19100000–BJ0000–LRCMK1G04346]

Filing of Plats of Survey, Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Indian Affairs and are necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of portions of the Sixth Standard Parallel North, through Range 8 East, the west and north boundaries, the subdivisional lines, and the subdivision of certain sections; and the survey of the subdivision of certain sections, of Township 25 North, Range 8 East, of the Sixth Principal Meridian, Nebraska, Group No. 175, was accepted March 26, 2013.

The plat and field notes representing the dependent resurvey of portions of the Sixth Standard Parallel North, through Range 7 East, the east boundary, the subdivisional lines, and the subdivision of section lines, and the survey of the subdivision of certain sections, Township 24 North, Range 7 East, of the Sixth Principal Meridian, Nebraska, Group No. 177, was accepted March 26, 2013.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: March 26, 2013.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 2013–07506 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–13XL1165AF: HAG13–0161]

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. 12 S., R. 2 E., accepted March 1, 2013

T. 15 S., R. 6 W., accepted March 1, 2013

T. 33 S., R. 6 W., accepted March 1, 2013

T. 21 S., R. 4 W., accepted March 22, 2013

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. 2013–07496 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI00000–L11200000–PH0000]

Notice of Public Meeting, Idaho Falls District Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Idaho Falls District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The Idaho Falls District RAC will meet in Challis, Idaho, April 23–24, 2013 for a two-day meeting at the Challis Field Office, 1151 Blue Mountain Road, Challis, Idaho 83226. The first day will begin at 10:00 a.m. and adjourn at 5:00 p.m. The second day will begin at 8:30 a.m. and adjourn at 2:30 p.m. Members of the public are invited to attend. A comment period will be held following the introductions from 10:00–10:30 a.m. All meetings are open to the public.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the BLM Idaho Falls District (IFD), which covers eastern Idaho.

Items on the agenda include an overview and tour of the Thompson Creek Mine and proposed Broken Wing Ranch Land Exchange.

The Recreation RAC will convene at approximately 11:15 a.m. to discuss the Caribou-Targhee National Forest proposed new cabin rental fee for the Al Taylor Cabin in Dubois and the Salmon Challis National Forest will provide some informational material regarding potential changes to the river lottery system. Following the morning part of the meeting, a tour of the Broken Wing Ranch will be conducted. The second day RAC members will meet briefly at the office to discuss Thompson Creek Mine and then head to the mine for a tour.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

FOR FURTHER INFORMATION CONTACT: Sarah Wheeler, RAC Coordinator, Idaho Falls District, 1405 Hollipark Dr., Idaho Falls, ID 83401. Telephone: (208) 524–7550. Email: *sawheeler@blm.gov.*

Dated: March 11, 2013.

Sarah Wheeler,

District RAC Coordinator.

[FR Doc. 2013–07503 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDB00100.LF1000000.HT0000. LXSS02D0000]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U. S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held April 25, 2013, at the Boise District Office, located at 3948 S. Development Avenue, Boise, Idaho, beginning at 9:00 a.m. and adjourning at 2:00 p.m. Members of the public are invited to attend. A public comment period will be held.

FOR FURTHER INFORMATION CONTACT: Marsha Buchanan, Supervisory Administrative Specialist and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3364.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. A report on the wildland fires within Boise District and the region will be provided. An update on the Paradigm Project will be provided by Council members. Council members will discuss priority projects for the coming year. Agenda items and location may change due to changing circumstances. The public may present written or oral comments to members of the Council. At each full RAC meeting, time is provided in the agenda for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance should contact the BLM Coordinator as provided above. 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.

Dated: March 22, 2013.

James M. Fincher,

District Manager.

[FR Doc. 2013–07504 Filed 3–29–13; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON00000 L10200000 DF0000.LXSS080C0000]

Notice of Public Meeting, Northwest Colorado Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest

Colorado Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Northwest Colorado RAC has scheduled a meeting May 22, 2013, from 10 a.m. to 3 p.m., with a public comment period at 11 a.m. The agenda will be available before the meeting at *www.blm.gov/co/st/en/BLM_Resources/racs/nwrac.html*.

ADDRESSES: The meeting will be held at the White River Field Office, 220 E. Market St., Meeker, CO.

FOR FURTHER INFORMATION CONTACT: David Boyd, Public Affairs Specialist, Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO. (970) 876–9008. 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, seven 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 Northwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in northwestern Colorado.

Topics of discussion during Northwest Colorado RAC meetings may include the BLM National Sage Grouse Conservation Strategy, working group reports, recreation, fire management, land-use planning, invasive species management, energy and minerals management, travel management, wilderness, wild horse herd management, land exchange proposals, cultural resource management and other issues as appropriate.

These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Subcommittees under this RAC meet regarding the McInnis Canyon National Conservation Area, Kremmling Resource Management Plan revision and the White River Field Office Resource Management Plan Oil and Gas Amendment. Subcommittees report to the Northwest Colorado RAC at each council meeting. Subcommittee meetings are open to the public. More information is available at *www.blm.gov/co/st/en/BLM_Resources/racs/nwrac.html*.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–07489 Filed 3–29–13; 8:45 am]

BILLING CODE 4312–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–LAMR–12036;PX.PD104097F.00.1]

General Management Plan, Draft Environmental Impact Statement, Lake Meredith National Recreation Area and Alibates Flint Quarries National Monument, Texas

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Draft Environmental Impact Statement for the General Management Plan, Lake Meredith National Recreation Area and Alibates Flint Quarries National Monument, Texas.

DATES: The National Park Service will accept comments on the Draft Environmental Impact Statement from the public for 60 days after the date the Environmental Protection Agency publishes this Notice of Availability. Public meetings on the draft will be scheduled during the comment period. Interested parties are encouraged to check the park Web site and local media for information.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov/LAMR*, in the office of the Chief of Resources, Arlene Wimer, 419 E. Broadway, Fritch, TX 79036, 806–857–0309.

FOR FURTHER INFORMATION CONTACT: Arlene Wimer, Chief of Resources, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036; or call 806–857–0309.

SUPPLEMENTARY INFORMATION: The document describes three management alternatives for Lake Meredith National Recreation Area and three management alternatives for Alibates Flit Quarries National Monument. Each NPS unit includes a no-action alternative and two action alternatives. The anticipated environmental impacts of all these alternatives are also analyzed.

Lake Meredith National Recreation Area: *Alternative 1,* the no-action alternative, would extend existing conditions and management trends into the future. This alternative serves as a basis of comparison for evaluating the action alternatives. *Alternative 2* would provide quality recreation, enhance traditional activities, and improve resource protection. The focus would be on providing a better visitor experience through additional or improved facilities and increased interpretation in accessible settings, and expanded types of recreational opportunities in areas designated as rural and semi-primitive zones. *Alternative 3, the NPS preferred alternative,* would promote both legislated and nontraditional uses, developing facilities and opportunities to address changing lake conditions and visitor uses. The recreation area would become a destination for semi-primitive outdoor recreation opportunities and encourage nonmotorized recreation such as hiking, biking, backpacking, horseback riding, and paddling. NPS would also strengthen partnerships to improve visitor experience.

Alibates Flint Quarries National Monument: *Alternative A,* the no-action alternative would extend existing conditions and management trends into the future. This alternative serves as a basis of comparison for evaluating the action alternatives. *Alternative B, the NPS preferred alternative,* would expand interpretation and education to provide a better understanding and appreciation of the flint and the people who quarried and used it while maintaining access restrictions that protect the archeological resources. Guided tours of the quarries would continue and would include the interpretation of an excavated quarry near the trail. Additional visitor opportunities would be provided in nearby parts of Lake Meredith National Recreation Area. These would include a self-guided interpretive trail near the visitor contact station and outdoor interpretive materials on the terrace above the visitor contact station. *Alternative C* would provide a greater understanding and appreciation for archeological protection through enhanced educational opportunities and research. It also would accommodate a wider range of visitor uses and experiences by zoning part of the national monument for unrestricted visitor access by foot.

If you wish to comment, you may submit your comments by any one of several methods. You are encouraged to submit comments via the Internet at *http://parkplanning.nps.gov/LAMR.* You may also mail comments to National Park Service, Denver Service Center—Erin Flanagan, P.O. Box 25287, Denver, CO 80225. Finally, you may

hand-deliver comments to 419 E. Broadway, Fritch, TX 79036. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 15, 2013.

John Wessels,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2013–07487 Filed 3–29–13; 8:45 am]

BILLING CODE 4312–CB–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933–934 (Second Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on polyethylene terephthalate film, sheet, and strip (''PET film'') from India and the antidumping duty orders on PET film from India and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 1, 2013. Comments on the adequacy of responses may be filed with the Commission by June 14, 2013. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* April 1, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: *Background.*—On July 1, 2002, the Department of Commerce issued a countervailing duty order on imports of PET film from India (67 FR 44179) and antidumping duty orders on imports of PET film from India (67 FR 44175) and Taiwan (67 FR 44174). Following five-year reviews by Commerce and the Commission, effective May 8, 2008, Commerce issued a continuation of the countervailing duty order on imports of PET film from India (73 FR 26080) and the antidumping duty orders on imports of PET film from India and Taiwan (73 FR 26079). The Commission is now conducting second five-year reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are India and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full first five-year reviews, the Commission defined the *Domestic Like Product* as all PET film corresponding to Commerce's scope, which does not include equivalent PET film.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its first full five-year reviews, the Commission defined the *Domestic Industry* to include all domestic producers of PET film.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. § 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–284, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 1, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 14, 2013. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2006.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2012, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year,

assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2006, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: March 26, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–07328 Filed 3–29–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Review)]

Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on light-walled rectangular pipe and tube from China and revocation of the antidumping duty orders on light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 1, 2013. Comments on the adequacy of responses may be filed with the Commission by June 14, 2013. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* April 1, 2013.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 13–5–283, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 30, 2008, the Department of Commerce issued an antidumping duty order on imports of light-walled rectangular pipe and tube from Turkey (73 FR 31065). On August 5, 2008, the Department of Commerce issued a countervailing duty order on imports of light-walled rectangular pipe and tube from China (73 FR 45405) and antidumping duty orders on imports of light-walled rectangular pipe and tube from China, Korea, and Mexico (73 FR 45403). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China, Korea, Mexico, and Turkey.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* consisting of light-walled rectangular pipe and tube, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* to consist of all known domestic producers of light-walled rectangular pipe and tube products.

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In the review concerning Turkey, the *Order Date* is May 30, 2008. In the reviews concerning China, Korea, and Mexico, the *Order Date* is August 5, 2008.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 1, 2013. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 14, 2013. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937

(Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To be Provided In Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2012, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for

the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 26, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–07329 Filed 3–29–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 26, 2013, the Department of Justice lodged two proposed consent decrees with the United States District Court for the Central District of California in the lawsuit entitled *City of Colton* v. *American Promotional Events, Inc., et al.,* Civil Action No. CV 09–01864 PSG [Consolidated with Case Nos. CV 09–6630 PSG (SSx), CV 09–06632 PSG (SSx), CV 09–07501 PSG (SSx), CV 09–07508 PSG (SSx), CV 10–824 PSG (SSx) and CV 05–01479 PSG (SSx)]. The first consent decree (''Goodrich consent decree'') requires Goodrich Corporation and/or United Technologies Corporation to partially fund and to perform work required by a future Record of Decision relating to the B.F. Goodrich Superfund Site (''Site''). The second consent decree (''KTI consent decree'') requires Ken Thompson, Inc.; KTI, Incorporated; Pipeline Carriers, Inc.; and Rialto Concrete Products, Inc. to pay $2.8 million toward Site costs. In the Goodrich consent decree and the KTI consent decree the United States provides certain covenants not to sue and other protections pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and Section 7003 of the Resource Conservation and Recovery Act. A hearing will be held on the proposed settlement if requested in writing within the public comment period.

The publication of this notice opens a period for public comment on the Goodrich consent decree and the KTI consent decree. Comments should specify which consent decree is being commented upon and should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *City of Colton* v. *American Promotional Events, Inc., et al.,* D.J. Ref. No. 90–11–2–09952. 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 e-mail	*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 Goodrich consent decree and the KTI consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide paper copies of the consent decrees 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 $51.75 for the Goodrich consent decree and $13.00 for the KTI consent decree (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–07450 Filed 3–29–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Kitchen Exhaust Cleaning Association

Notice is hereby given that, on March 8, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Kitchen Exhaust Cleaning Association

(''IKECA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is IKECA, Philadelphia, PA. The nature and scope of IKECA's standards development activities are to develop national standards for cleaning, inspection, and maintenance of commercial kitchen exhaust systems.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–07451 Filed 3–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,919]

RG Steel Sparrows Point LLC, Formerly Known as Severstal Sparrows Point LLC, a Subsidiary of RG Steel LLC, Including On-Site Leased Workers From Echelon Service Company, Sun Associated Industries, Inc., MPI Consultants LLC, Alliance Engineering, Inc., Washington Group International, Javan & Walter, Inc., Kinetic Technical Resources Co., Innovative Practical Approach, Inc., CPSI, Accounts International, Adecco, Aerotek, Booth Consulting, Crown Security, Eastern Automation, EDS (HP), TekSystems, URS Corporation, B More Industrial Services LLC, and Recycling & Treatment Technologies of Baltimore, LLC Sparrows Point, Maryland; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor (Department) issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 2011, applicable to workers and former workers of RG Steel Sparrows Point LLC, formerly known as Severstal Sparrows Point LLC, a subsidiary of RG Steel LLC, Sparrows Point, Maryland.

On June 22, 2012, July 18, 2012, July 30, 2012 and January 16, 2013, the Department issued amended certification applicable to the subject firm.

Workers at the subject firm were engaged in employment related to production of rolled steel. The worker group includes on-site leased workers from various firms.

The Department reviewed the certification for workers and former workers of the subject firm.

The Department has received information that workers leased from Recycling & Treatment Technologies of Baltimore, LLC were employed on-site at the Sparrows Point, Maryland location of RG Steel Sparrows Point LLC. The Department has determined that these workers from Recycling & Treatment Technologies of Baltimore, LLC were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Recycling & Treatment Technologies of Baltimore, LLC who worked on-site at the Sparrows Point, Maryland facility.

The amended notice applicable to TA–W–74,919 is hereby issued as follows:

All workers of RG Steel Sparrows Point LLC, formerly known as Severstal Sparrows Point LLC, a subsidiary of RG Steel LLC, including on-Site leased workers from Echelon Service Company, Sun Associated Industries, Inc., MPI Consultants LLC, Alliance Engineering, Inc., Washington Group International, Javan & Walter, Inc., Kinetic Technical Resources Co., Innovative Practical Approach, Inc., CPSI, Accounts International, Adecco, Aerotek, Booth Consulting, Crown Security, Eastern Automation, EDS (HP), TekSystems, URS Corporation, B More Industrial Services LLC, and Recycling & Treatment Technologies of Baltimore, LLC, Sparrows Point, Maryland, who became totally or partially separated from who became totally or partially separated from employment on or after November 22, 2009 through February 9, 2013, and all workers in the group threatened with total or partial separation from employment on February 9, 2011 through February 9, 2013, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of March, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–07410 Filed 3–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,813; TA–W–74,813A]

Eastman Kodak Company (GCG), Electrographic Print Solutions, Including On-Site Leased Workers From Adecco and Datrose, Spencerport, New York; Eastman Kodak Company, IPS, Including On-Site Leased Workers From Adecco, Dayton, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 18, 2011, applicable to workers of Eastman Kodak Company (GCG), Electrographic Print Solutions, including on-site leased workers from Adecco and Datrose, Spencerport, New York. The Department's Notice of determination was published in the **Federal Register** on March 10, 2011 (76 FR 13228).

On its own motion, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of printers and printer consumables. Eastman Kodak has filed for bankruptcy and has ceased to produce printers and printer consumables.

The Department determines that workers at Eastman Kodak Company, IPS, including on-site leased workers from Adecco, Dayton, Ohio, were affected by the shift in production to a foreign country which contributed importantly to the worker separations at Eastman Kodak Company (GCG), Electrographic Print Solutions, Spencerport, New York.

The amended notice applicable to TA–W–74,813 is hereby issued as follows:

All workers of Eastman Kodak Company (GCG), Electrographic Print Solutions, including on-site leased workers from Adecco and Datrose, Spencerport, New York (TA–W–74,813) and Eastman Kodak Company, IPS, including on-site leased workers from Adecco, Dayton, Ohio (TA–W–74,813A), who became totally or partially separated from employment on or after October 29, 2009 through February 18, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of March, 2013

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–07411 Filed 3–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of March 11, 2013 through March 15, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) one of the following must be satisfied:

(A) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) one of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section

222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,458	Rock Tenn Company, Container Division, Smurfit-Stone Container Corporation, Manpower.	Shelby, NC	March 29, 2011.
82,213	CompuCom Systems, Inc	Tewksbury, MA	December 4, 2011.
82,246	Itron, Inc	Waseca, MN	December 11, 2011.
82,389	Elster AMCO Water, LLC, Elster—Melrose Industries PLC, Spherion Staffing, Kelly Services, etc.	Ocala, FL	January 29, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,266	Dominion Medical Management, Inc., Revenue Cycle Management, LLC, and Barrington Lakes Group, LLC, Integrated Medical Partners, etc.	Milwaukee, WI	December 14, 2011.
82,308	TE Connectivity, Tyco Electronics, Relay Products Business Unit, Kelly Services.	Winston-Salem, NC	December 21, 2011.
82,315	Lands' End, Inc., Merchandising Inventory Planning Department, Sears Holding Corporation.	Dodgeville, WI	June 9, 2012.
82,382	Amdocs, Inc., Amdocs, Ltd, Billing Testing Group, At&T, ACD Division, Wavecreste, etc.	New Haven, CT	January 21, 2012.
82,382A	Amdocs, Inc., Amdocs, Ltd, Billing Testing Group, At&T, ACD Division, Wavecreste, etc.	New Haven, CT	March 5, 2013.
82,382B	Amdocs, Inc., Amdocs, Ltd, Billing Testing Group, AT&T, ACD Division, Wavecreste, etc.	Hoover, AL	January 21, 2012.
82,382C	Amdocs, Inc., Amdocs, Ltd, Billing Testing Group, AT&T, ACD Division, Wavecreste, etc.	Indianapolis, IN	January 21, 2012.
82,382D	Amdocs, Inc., Amdocs, Ltd, Billing Testing Group, AT&T, ACD Division, Wavecreste, etc.	St. Louis, MO	January 21, 2012.
82,394	L.M. Berry and Company LLC, Nashville, Tennessee, Publishing Operations Group, YP LLC, YP Holdings LLC.	Nashville, TN	January 30, 2012.
82,399	Berwick Offray, LLC, CSS Industries, Onesource Staffing Solutions, etc	Berwick, PA	June 26, 2012.
82,414	Sears Holdings Management Corporation, Point-of-Sale Software Division, Teksystems, Paterson, etc.	Round Rock, TX	February 4, 2012.
82,422	St. Marys Carbon Company	Brookville, PA	March 9, 2012.
82,426A	Destron Fearing Corporation, Visual & Electronic tags for Livestock and Implants for Companion Pets, etc.	St. Paul, MN	February 6, 2012.
82,434	Dell Products LP, Global Products Data Management	Austin, TX	February 7, 2012.
82,434A	Dell Products LP, Global Products Data Management	Round Rock, TX	February 7, 2012.
82,459	Rohm and Haas Electronic Materials, LLC, Dow Chemical, Kelly Services	Marlborough, MA	February 13, 2012.
82,468	LSI Corporation	Milpitas, CA	February 14, 2012.
82,468A	LSI Corporation	San Jose, CA	February 14, 2012.
82,468B	LSI Corporation	Colorado Springs, CO.	February 14, 2012.
82,468C	LSI Corporation	Fort Collins, CO	February 14, 2012.
82,468D	LSI Corporation	Longmont, CO	February 14, 2012.
82,468E	LSI Corporation	Norcross, GA	February 14, 2012.
82,468F	LSI Corporation	Wichita, KS	February 14, 2012.
82,468G	LSI Corporation	Waltham, MA	February 14, 2012.
82,468H	LSI Corporation	Mendota Heights, MN.	February 14, 2012.
82,468I	LSI Corporation, Pro Unlimited and Prosero, Inc	Allentown, PA	February 14, 2012.
82,468J	LSI Corporation	Austin, TX	February 14, 2012.
82,470	Citigroup, Corporate Finance for Operations & Technology	New York, NY	February 14, 2012.
82,473	Northshore Mining Company, Cliffs Natural Resources, Vanhouse and Express Employment.	Silver Bay, MN	February 15, 2012.
82,478	Brayton International, Steelcase, Inc., The Manpower Group/Experis	High Point, NC	February 15, 2012.
82,488	Sierra Video Systems, Kramer Electronics Company, Adecco, Trinet Human Resources Corporation.	Nevada City, CA	February 20, 2012.
82,493	Steelcase, Inc., Manpower Group/Tapfin, 6100 East Paris	Caledonia, MI	February 21, 2012.
82,493A	Steelcase Inc., Manpower Group/Tapfin, 4100 68th Street	Caledonia, MI	February 21, 2012.
82,504	Cardinal Health 200, LLC, Cardinal Health, Medical-Presource Mfg, Adecco USA, Countryside, etc.	Waukegan, IL	February 25, 2012.
82,527	ArjoHuntleigh, Stout Manufacturing, Express Employment Professional, Aerotek, etc.	San Antonio, TX	March 5, 2012.
82,533	Sun Chemical Corporation, Performance Pigments Division, Manpower Staffing.	Wurtland, KY	March 5, 2012.
82,534	VF Jeanswear Limited Partnership, VF Corporation	Saltillo, MS	March 6, 2012.

TA–W No.	Subject firm	Location	Impact date
82,538	Zebra Technologies Corporation	Lincoln, RI	March 7, 2012.
82,539	Elster Solutions, Elster, The Greer Group	Raleigh, NC	March 7, 2012.
82,543	Zebra Technologies Corporation, Specialty Printing Group, Spherion Staffing Services.	Vernon Hills, IL	March 7, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1)(employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,426	Destron Fearing Corporation, Readers for Livestock, Companion Pet and Fisheries.	St. Paul, MN	
82,475	Sysco Portland, Inc., Sysco Corporation, IT Department	Wilsonville, OR	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,350	Kurz-Kasch, Inc., South Boston Facility	South Boston, VA	
82,371	T-Mobile USA, Inc., Code Fault Isolation Team, Engineering Division	Bethlehem, PA	
82,388	Aleris Recycling Bens Run, LLC, Winans Extras Support Staffing and CDI Corporation.	Friendly, WV	
82,429	Colville Indian Precision Pine, Colville Tribal Enterprise Corporation	Omak, WA	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,405	Boise Paper Holdings, LLC	Boise, ID	
82,465	Kern-Liebers USA, Inc.	Holland, OH	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,489	LSI Corporation	Fort Collins, CO	

I hereby certify that the aforementioned determinations were issued during the period of March 11, 2013 through March 15, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–0365–6822.

Dated: March 19, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–07413 Filed 3–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade

Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 11, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 11, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of March 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[20 TAA petitions instituted between 3/11/13 and 3/15/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82546	Contech Castings (Company)	Auburn, IN	03/11/13	03/07/13
82547	Disston Company (Company)	South Deerfield, MA	03/11/13	03/01/13
82548	Supermedia LLC (Union)	Middleton, MA	03/11/13	03/08/13
82549	Core Systems, LLC (Company)	Painesville, OH	03/11/13	03/07/13
82550	Verizon Communications (Workers)	Tampa, FL	03/11/13	03/08/13
82551	Siemens Medical Solutions USA, Inc (Workers)	Malvern, PA	03/12/13	03/07/13
82552	Ficosa North America Corporation (Company)	Berne, IN	03/12/13	03/11/13
82553	Enservio, Inc. (State/One-Stop)	Needham, MA	03/12/13	02/22/13
82554	Halliburton Energy Services (Workers)	Duncan, OK	03/13/13	03/13/13
82555	Agfa Health Care (Company)	Carlstadt, NJ	03/13/13	03/12/13
82556	S4Carlisle Publishing Services (Company)	Dubuque, IA	03/13/13	03/11/13
82557	Ericsson Inc. (State/One-Stop)	Overland Park, KS	03/14/13	03/12/13
82558	Abbott Diabetes Care (Workers)	Langhorne, PA	03/14/13	03/13/13
82559	Kimberly-Clark Corporation—Jackson Safety (State/One-Stop).	Belmont, MI	03/14/13	03/12/13
82560	Velux America (State/One-Stop)	Greenwood, SC	03/14/13	03/13/13
82561	Nian Hing, Inc. (Workers)	Brooklyn, NY	03/14/13	03/13/13
82562	General Motors Components Holdings, LLC (Workers)	Kokomo, IN	03/14/13	03/13/13
82563	RR Donnelley (State/One-Stop)	Greenfield, OH	03/15/13	03/14/13
82564	Stefanini (State/One-Stop)	Southfield, MI	03/15/13	03/13/13
82565	Debusk Knitting Mill (Workers)	New Tazewell, TN	03/15/13	02/28/13

[FR Doc. 2013–07412 Filed 3–29–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting information concerning arts-based, creative placemaking projects that have been sponsored by the National Endowment for the Arts Our Town and Mayors' Institute on City Design 25th Anniversary Initiative (MICD25) programs. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before May 28, 2013. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Sunil Iyengar, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Room 616, Washington, DC 20506–0001, telephone

(202) 682–5424 (this is not a toll-free number), fax (202) 682–5677.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2013–07498 Filed 3–29–13; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Cornell High Energy Synchrotron Source (CHESS) at Cornell University by the Division of Materials Research (DMR) #1203

Dates & Times:
April 28, 2013; 5:45 p.m.–8:30 p.m.
April 29, 2013; 7:45 a.m.–8:00 p.m.
April 30, 2013; 8:00 a.m.–4:00 p.m.

Place: Cornell University, Ithaca, NY

Type of Meeting: Part open

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning operations and further support of the CHESS facility at Cornell.

Agenda:

Sunday, April 28, 2013

5:45 p.m.–7:15 p.m. Closed—Executive Session
7:15 p.m.–8:30 p.m. Open—Director's overview

Monday, April 29, 2013

8:00 a.m.–3:00 p.m. Open—Review of CHESS
3:00 p.m.–4:40 p.m. Closed—Executive session
4:40 p.m.–8:00 p.m. Open—Poster session and dinner

Tuesday, April 30, 2013

8:00 a.m.–9:45 a.m. Open—Presentations and Tour
9:45 a.m.–4:00 p.m. Closed—Executive session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 26, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–07436 Filed 3–29–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Engineering Advisory Committee Meeting, #1170.

Date/Time: April 17, 2013: 11:45 p.m. to 5:00 p.m. April 18, 2013: 8:00 a.m. to 12:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1235, Arlington, Virginia 22203.

Type of Meeting: Open.

Contact Person: Deborah Young, National Science Foundation, 4201 Wilson Boulevard, Suite 505, Arlington, Virginia 22203 Telephone: 703/292–8300.

To help facilitate your entry into the building, contact the individual listed above. Your request to attend this meeting should be received by email (*dbyoung@nsf.gov*) on or prior to April 15, 2013.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

Agenda

Wednesday, April 17, 2013

- Directorate for Engineering Update
- Perspectives from the Office of the Director
- NSF Strategic Plan
- NSF CAREER Update
- Panel on Leveraging

Thursday, April 18, 2013

- AdCom Member Topics
- Update on Advanced Manufacturing Activities
- Update on Engineering Education Activities
- Planning for Comprehensive Public Access to Research Results
- Roundtable on ENG Strategic Activities and Recommendations
- Closing Remarks, and Wrap Up

Dated: March 26, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–07435 Filed 3–29–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0055; Docket No. 50–313; License No. DPR–51; EA–13–031]

In the Matter of Entergy Operations, Inc. (Arkansas Nuclear One, Unit 1); Confirmatory Order Modifying License

I

Entergy Operations, Inc. (Entergy, licensee), is the holder of Renewed Facility Operating License No. DPR–51 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization,'' on June 20, 2001. The license authorizes the operation of the Arkansas Nuclear One, Unit 1 (ANO–1, facility), in accordance with conditions specified therein. The facility is located on the licensee's site in Pope County, Arkansas.

II

On November 2, 2005, Entergy notified the NRC of its intent to transition the facility to the National Fire Protection Association (NFPA) Standard 805 fire protection program in accordance with 10 CFR 50.48(c). Under this initiative, the NRC has exercised enforcement discretion for most fire protection noncompliances that are identified during the licensee's transition to NFPA 805, and for certain existing identified noncompliances that reasonably may be resolved at the completion of transition. NFPA 805 was adopted in 10 CFR 50.48(c) as an alternative fire protection rule, which is one path to resolving longstanding fire protection issues. To receive enforcement discretion for these noncompliances, the licensee must meet the specific criteria as stated in Section 9.1, ''Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48),'' of the ''NRC Enforcement Policy,'' dated June 7, 2012, and submit an acceptable license amendment application by the date specified in the licensee's commitment letter. In a letter dated June 28, 2011, Entergy committed to submit its license amendment application by August 31, 2012.

III

In a letter dated August 23, 2012, as supplemented by letters dated November 15, December 13, and December 18, 2012 (collectively, ''extension request''), Entergy described its progress for transitioning ANO–1 to NFPA 805. Entergy also notified the NRC that the development of a high-quality application will require more time than originally anticipated and that it will be unable to meet its previously committed submittal date of August 31, 2012.

In the extension request, Entergy reiterated its commitment to transition the facility to NFPA 805, and notified the NRC that Entergy will submit its license amendment request (LAR) no later than January 31, 2014. The newly proposed submittal date is beyond the previous committed submittal date and, thus, exceeds Entergy's enforcement discretion (i.e., until August 31, 2012) that was granted to Entergy for certain fire protection noncompliances. However, if provided with adequate justification, the NRC may revise the submittal date through the use of an Order that would continue the enforcement discretion provided in Section 9.1 of the Enforcement Policy.

Based on the licensee maintaining acceptable compensatory measures and the NRC's review of the licensee's transition status, planned key activities to complete its NFPA 805 LAR, and planned fire risk reduction modifications, the NRC staff concluded that the licensee provided adequate justification for revising the LAR submittal date. The NRC documented its conclusions in its safety evaluation dated January 24, 2013 (ML13009A292). Therefore, the NRC has determined that the date for submitting an acceptable NFPA 805 LAR should be extended. This Order is being issued to revise the original ANO–1 LAR submittal date of August 31, 2012, until January 31, 2014. The new submittal date supports Entergy's continued progress in activities related to the transition to NFPA 805 as described in the letter dated August 23, 2012.

Entergy may, at any time, cease its transition to NFPA 805 and comply with ANO–1's existing licensing basis and the regulations set forth in 10 CFR 50.48. As indicated in the Enforcement Policy, if Entergy decides not to complete the transition to 10 CFR 50.48(c), it must submit a letter stating its intent to retain its existing licensing basis and withdrawing its letter of intent to comply with 10 CFR 50.48(c). If Entergy fails to meet the new LAR submittal date and fails to comply with its existing licensing basis, the NRC will take appropriate enforcement action consistent with the NRC's Enforcement Policy.

On March 12, 2013, Entergy consented to issuing this Order, as described in Section V below. Entergy further agreed that this Order will be effective upon issuance and that it has waived its rights to a hearing.

IV

Based on the licensee maintaining acceptable compensatory measures, and a review of the licensee's status and planned key activities, including the intended NFPA 805 modifications, the NRC has determined that the licensee has provided adequate justification for its commitment given in Section V, and, thus, for the extension of enforcement discretion. Because the licensee will continue to perform facility modifications, with associated procedure updates, to reduce current fire risk in parallel with the development of its NFPA 805 LAR, the staff finds this acceptable to ensure public health and safety. Based on the above and Entergy's consent, this Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR 2.202, ''Orders,'' *it is hereby ordered,* that license no. DPR–51 is modified as follows:

A. Entergy will submit an acceptable license amendment request for Arkansas Nuclear One, Unit 1 to adopt NFPA Standard 805 by no later than January 31, 2014.

B. Entergy will continue to receive enforcement discretion until January 31, 2014. If the NRC finds that the LAR is not acceptable, the NRC will take steps consistent with the Enforcement Policy.

The Director of the Office of Enforcement, in consultation with the Director of the Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

VI

In accordance with 10 CFR 2.202, the licensee, under oath or affirmation, must submit a written answer to this Order within 30 days from the date of this Order. Additionally, any person adversely affected by this Order may submit a written answer and/or request a hearing on this Order within 30 days from the date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

All documents filed in the NRC adjudicatory proceedings, including a request for a 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 certificate). Based on 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

NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC'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 a 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 document 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 NRC's adjudicatory E-Filing system may seek assistance by contracting the NRC Meta System Help Desk thorough the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc/gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll free call to 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 extension 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 using E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 20th day of March 2013.

Roy P. Zimmerman,

Director, Office of Enforcement.

[FR Doc. 2013–07469 Filed 3–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0053]

SHINE Medical Technologies, Inc.; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

FOR FURTHER INFORMATION CONTACT: Steven Lynch, Project Manager, Research and Test Reactor Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–1524; email: *Steven.Lynch@nrc.gov.*

SUPPLEMENTARY INFORMATION:

1.0 Background

SHINE Medical Technologies, Inc. (SHINE) intends to submit an application to construct a medical isotope production facility pursuant to the requirements in part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), and in accordance with 10 CFR 2.101(a)(5) for the purpose of producing molybdenum-99 (Mo-99). As an applicant for a permit to construct such a facility, SHINE will be subject to all applicable rules, regulations and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect. SHINE intends to construct its medical isotope production facility in Rock County, Wisconsin.

By letter dated July 10, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12214A434), SHINE requested an interpretation of 10 CFR

2.101(a)(5), which allows an applicant for a construction permit under 10 CFR part 50 or combined operating license under 10 CFR part 52 to submit the required information of applicants by 10 CFR part 50 in two parts. However, that rule also stipulates that only production or utilization facility applicants subject to 10 CFR 51.20(b) [1] may take advantage of the two-part submittal provisions of 10 CFR 2.101(a)(5). SHINE, recognizing that not all production or utilization facilities, particularly research reactors, require an environmental impact statement or environmental impact statement supplement, requested that the NRC provide clarification on the intent of the rule. Specifically, SHINE wanted to know if production or utilization facility applicants could submit a construction permit application in two parts even if an environmental impact statement is not explicitly required for the application by 10 CFR 51.20(b).

NRC staff responded to SHINE's request in a letter dated December 7, 2012 (ADAMS Accession No. ML12319A192). In this letter, staff concluded:

> With respect to SHINE's questions regarding 10 CFR 2.101(a)(5), in order for an applicant for a construction permit under part 50 of 10 CFR to submit an application in two parts under 10 CFR 2.101(a)(5), the proposed facility must be subject to 10 CFR 51.20(b) * * * SHINE's proposed action for licensing a medical isotope production facility is not an action identified in 51.20(b); therefore, 10 CFR 2.101(a)(5) is not applicable to SHINE's licensing proposal. However, SHINE could apply for an exemption under 10 CFR 50.12 in order to submit its application for a construction permit in two parts as described in 10 CFR 2.101(a)(5).

Staff went on to say that should an exemption to 10 CFR 2.101(a)(5) be sought, the request must set forth existing special circumstances warranting the exemption, as well as provide the proposed contents of each part of the construction permit application.

2.0 Request/Action

Section 2.101(a)(5) of 10 CFR states:

> An applicant for a construction permit under part 50 of this chapter * * * for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (b)(3) or § 50.22 of this chapter * * * may submit the information required of applicants by part 50 * * * of this chapter in two parts.

SHINE's application requested an exemption from the stipulation of 10 CFR 2.101(a)(5) that applications for a construction permit under 10 CFR part 50 must be of the type requiring an environmental impact statement or a supplement to an environmental impact statement as described in 10 CFR 51.20(b). The exemption would allow SHINE to submit a portion of its construction permit up to six months prior to the submittal of the remainder of the application regardless of whether or not an environmental impact statement or a supplement to an environmental impact statement is prepared for its construction permit application. Specifically, in accordance with 10 CFR 2.101(a)(5), SHINE proposes to submit the following in part one of its construction permit application:

- The environmental report required by 10 CFR 50.30(f),
- The description and safety assessment of the site required by 10 CFR 50.34(a)(1),
- The filing fee required by 10 CFR 50.30(e) and 10 CFR 170.21,
- The general information required by 10 CFR 50.33, and
- The agreement limiting access to Classified Information required by 10 CFR 50.37.

Part two of SHINE's construction permit application will contain the remainder of the preliminary safety analysis report required by 10 CFR 50.34(a).

3.0 Discussion

To docket SHINE's construction permit application in two parts under 10 CFR 2.101(a)(5), as proposed, an exemption to the regulations is required. Given the dependency of docketing of an application under 10 CFR 2.101(a) to an applicant meeting the requirements of 10 CFR 50.30, it is appropriate to use the requirements of 10 CFR 50.12 to evaluate this exemption request.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. While the action requested is not for an exemption to a 10 CFR part 50 regulation, given the dependency of docketing a construction permit application in accordance with 10 CFR 2.101(a) in order to satisfy other requirements of 10 CFR Part 50, it is appropriate to evaluate this exemption using the criteria of 10 CFR 50.12.

Authorized by Law

This exemption would allow SHINE to submit its application for a 10 CFR part 50 construction permit application in two parts as provided for in 10 CFR 2.101(a)(5). The NRC staff has determined that granting of the 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.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 2.101(a)(5) is to provide a mechanism to facilitate the construction permit application process by allowing applicants to submit their applications for a construction permit in two parts. The provisions for two-part construction permit application submittals were added as an amendment to the regulations of 10 CFR part 2 on April 24, 1974, in the **Federal Register**. The intent of this final rule was to ''reduce the time required to bring on line nuclear power plants which satisfy all environmental and safety requirements * * * [and remove] unnecessary obstacles to the construction of power plants needed to meet the nation's energy needs'' (39 FR 14506). Recognizing the procedural nature of the amendment, the Commission made the language of the final rule effective without the customary 30-day notice. It is consistent with this reasoning that the ability for SHINE to submit its construction permit application in two parts will facilitate the licensing process of this facility in its effort to respond to the nation's demand for a domestic supply of Mo-99.

The current provisions of 10 CFR 2.101(a)(5) state that one part of the submittal must include the environmental report required by 10 CFR 50.30(f), while the other part must include the preliminary safety analysis report required by 10 CFR 50.34(a). Whichever part is submitted first must also contain the following as part of the submittal:

- The filing fee required by 10 CFR 50.30(e) and 10 CFR 170.21,
- The general information required by 10 CFR 50.33,
- The description and safety assessment of the site required by 10 CFR 50.34(a)(1); and
- The agreement limiting access to Classified Information required by 10 CFR 50.37.

For the case where the preliminary safety analysis report required by 10

[1] 10 CFR 51.20(b) enumerates the types of licensing and regulatory actions requiring an environmental impact statement or a supplement to an environmental impact statement.

CFR 50.34(a) is submitted second, the information required by 10 CFR 50.34(a)(2)–(a)(8) does not need to accompany the first part of the submittal. Either part of the construction permit application may be submitted first as long as the submission of each part of the application does not precede or follow the other by longer than six months.

While the current language of the rule limits its applicability to applications meeting the criteria of licensing and regulatory actions requiring environmental impact statements as described in the provisions of 10 CFR 51.20(b), over time the language of the rule has been expanded to include types of applications not originally considered at the time of the initial rulemaking. For example, in 2007 the language of the rule was modified to include applicants seeking combined licenses under 10 CFR Part 52. The Commission determined that ''[t]here are no considerations unique to combined licenses which would weigh against allowing a combined license applicant to submit a two part application under paragraph (a)(5) of § 2.101'' (72 FR 49412). Similarly, given the procedural nature of this rule, there are no unique considerations for medical isotope production facilities, which would weigh against allowing a license applicant such as SHINE to submit a two-part application under 10 CFR 2.101(a)(5).

Based on the procedural nature of this request, as described above, no new accident precursors are created by allowing an applicant to submit a construction permit application in two parts; thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk [2] to public health and safety.

Consistent With Common Defense and Security

As discussed above, the proposed exemption would allow SHINE to submit its application for a 10 CFR part 50 construction permit application in two parts as provided for in 10 CFR 2.101(a)(5). The timing of submitting a construction permit application has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12, are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.[3] The underlying purpose of 10 CFR 2.101(a)(5), as discussed above, is to facilitate the application submittal process for construction permit applicants when it is in the interest of the public to remove unnecessary obstacles to meet the needs of the nation. When the rule was originally written, there was a ''deep national concern over energy sources and supply'' (39 FR 14508). Similarly, there currently exists a national concern over the sources and supply of Mo-99 in the United States. Recognizing this concern, The U.S. Department of Energy and the National Nuclear Security Administration are currently supporting four separate commercial entities in the development of low enriched uranium technologies to accelerate commercial production of Mo-99 in the United States through the Global Threat Reduction Initiative.[4] In support of this effort and in alignment with the underlying purpose of the rule, SHINE's letter requesting an exemption from the requirements of 10 CFR 2.101(a)(5) dated February 18, 2013, states that it intends to ''construct and operate a medical isotope production facility able to produce molybdenum-99'' (ADAMS Accession No. ML13051A007) in order to meet the emerging domestic demands for the Mo-99 and its decay product, technetium-99m, in nuclear medicine procedures. Therefore, since the underlying purpose of 10 CFR 2.101(a)(5) is achieved, the special circumstances required by 10 CFR 50.12 for the granting of an exemption from 10 CFR 2.101(a)(5) exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants SHINE Medical Technologies, Inc. an exemption from the requirement of 10 CFR 2.101(a)(5) limiting the regulation's applicability to licensing and regulatory actions requiring environmental impact statements as described in the provisions of 10 CFR 51.20(b). The granting of this exemption allows SHINE to submit the construction permit application for its medical isotope production facility in two parts in accordance with the remainder of the provisions of 10 CFR 2.101(a)(5).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as it is procedural in nature. Furthermore, the Commission has determined that this exemption request meets the criteria in 10 CFR 51.22(c)(25) for a licensing action that is categorically excluded from an environmental assessment because the granting of this exemption: (1) Neither involves a significant reduction in the margin of safety nor creates a possibility of an accident, thus resulting in no significant hazards consideration; (2) would not result in the release of effluents, thus resulting in no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (3) neither introduces new radiological hazards nor increases existing radiological hazards, thus resulting in no significant increase in individual or cumulative public or occupational radiation exposure; (4) would not involve construction, thus resulting in no significant construction impact; (5) would occur prior to any radiological components being in place at the facility and would not create any new accident precursors, thus resulting in no significant increase in the potential for or consequences from radiological accidents; and (6) would allow the submission of a construction permit application in two parts, which is related to a scheduling requirement and is administrative in nature in accordance with 10 CFR 51.22(c)(25)(G) and (I), respectively. This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of March, 2013.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko,

Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–07534 Filed 3–29–13; 8:45 am]

BILLING CODE 7590–01–P

[2] Risk is defined as the probability of an accident multiplied by the consequences of an accident. More information on risk as it is applies to NRC regulatory activities can be found in the Commission White Paper on Risk-Informed and Performance Based Regulation, SECY–98–144.

[3] There are several ways to demonstrate the presences of special circumstances. See 10 CFR 50.12(a)(2)(i)–(vi). SHINE has proposed that the special circumstances described in 10 CFR 50.12(a)(2)(ii) are present in this circumstance.

[4] To learn more about the Global Threat Reduction Initiative and U.S. Department of Energy's support of domestic Mo-99 production, please visit *http://nnsa.energy.gov/.*

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; NRC–2013–0056]

Dominion Energy Kewaunee, Inc., Kewaunee Power Station Post-Shutdown Decommissioning Activities Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting and availability of report.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will conduct a meeting to discuss and accept public comments on the Kewaunee Power Station (KPS) Post-Shutdown Decommissioning Activities Report (PSDAR), Revision 0, on Wednesday, April 24, 2013, at 7:00 p.m., DST, in a meeting room at the Kewaunee City Council Chambers, City of Kewaunee offices, 401 Fifth Street, Kewaunee, WI 54216.

FOR FURTHER INFORMATION CONTACT: Dr. Karl Feintuch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301- 415–3079 or email: *karl.feintuch@nrc.gov.*

Background

Also pursuant to section 50.82(a)(4)(ii) of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC provides notice of its receipt on February 28, 2013, of the signed original PSDAR dated February 26, 2013.

Kewaunee Power Station began commercial operation in June 1974. On February 25, 2013, Dominion Energy Kewaunee, LLC (DEK, the licensee) provided to the NRC its ''certification of permanent cessation of operations'' (Cert1) consistent with the requirements of 10 CFR Part 50.4(b)(8) and as described in 10 CFR 50.82(a)(1)(i). Cert1 submitted by DEK stated that the date on which operations will cease at KPS is May 7, 2013. Thereafter, all fuel will be permanently removed from the reactor vessel and placed in the spent fuel pool.

Upon completion of the permanent removal of fuel from the reactor vessel, DEK will have met the requirements to submit written certification of permanent fuel removal (Cert2) consistent with the requirements of 10 CFR 50.4(b)(9) and as described in 10 CFR 50.82(a)(1)(ii).

Cert1 may be viewed in the NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML13058A065. In a prior communication on November 2, 2012 (ADAMS Accession No. ML12312A018), DEK had notified the NRC of its intention to permanently cease power operations at KPS pending completion of a grid stability review by the Midwest Independent Transmission System Operator, Inc.

Upon docketing of Cert1 and Cert2, pursuant to 10 CFR 50.82(a)(2), the 10 CFR Part 50 renewed facility operating license for KPS will no longer authorize operation of the reactor or emplacement or retention of fuel in the reactor vessel. Also, pursuant to 10 CFR 50.51, ''Continuation of license,'' Subpart (b), the facility license remains in effect until the NRC notifies the licensee that the license has been terminated.

Further Information

The PSDAR, Revision 0, is available for public viewing at the NRC's Public Document Room (PDR) or electronically through NRC ADAMS at Accession No. ML13063A248. Documents may be examined, and/or copied for a fee, at the PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852.

Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–(800) 397–4209, or (301) 415–4737, or by email at *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 21st day of March 2013.

For the U.S. Nuclear Regulatory Commission

Karl D. Feintuch,

Acting Chief, Plant Licensing Branch III–1, Division of Operator Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–07470 Filed 3–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0061]

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the Bureau of Land Management

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Bjornsen, Project Manager, Environmental Review Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852, Telephone: 301–415–1195, fax number: 301–415–5369; email: *Alan.Bjornsen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 12, 2013, the United States Nuclear Regulatory Commission (NRC) and the Bureau of Land Management, United States Department of the Interior (BLM) entered into a Memorandum of Understanding (MOU) concerning the development of uranium or thorium resources on BLM administered public lands, including Federal mineral estates. The MOU sets forth the cooperative working relationship between the NRC and the BLM, primarily for the purpose of enhancing each agency's compliance with the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA). In particular, the MOU improves interagency communications, facilitates sharing of special expertise and information, and coordinates the preparation of studies, reports and environmental analyses. The MOU supersedes the original memorandum of understanding entered into between the NRC and the BLM on November 30, 2009.

II. Summary

The MOU provides a framework for this cooperative relationship and identifies the responsibilities of each agency. The intent of the MOU is to improve interagency communications, facilitate the sharing of special expertise and information, and coordinate the preparation of studies, reports and environmental analyses pertaining to NRC licensing actions that involve BLM administered public lands. The MOU includes provisions that cover compliance with NEPA and Section 106 of the NHPA. The agencies will implement the MOU through periodic coordination meetings between the NRC and BLM management and staff, establishing points of contact at each agency, identifying information gaps that can be filled by each agency, and ensuring that specific environmental and historic preservation issues of interest to each agency are addressed in environmental reviews. To the fullest extent possible, NRC and BLM will participate either as lead agency, co-lead or cooperating agency on the preparation of site-specific environmental review documents.

III. Further Information

Addresses: Please refer to Docket ID NRC–2013–0061 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0061. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ''Memorandum of Understanding between the Bureau of Land Management, Department of the Interior and the Nuclear Regulatory Commission, an Independent Agency'' is available electronically under ADAMS Accession Number ML13072A778.

Dated at Rockville, Maryland this 22nd day of March, 2013.

For the Nuclear Regulatory Commission.

Christepher McKenney,

Acting Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–07549 Filed 3–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0041]

Proposed Revision to Design of Structures, Components, Equipment and Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision; extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is extending the comment period of a notice that was published in the **Federal Register** (FR) on March 1, 2013 (78 FR 13911), that announced the request for comments on the proposed revisions in Chapter 3, ''Design of Structures, Components, Equipment, and Systems;'' and the request for comment on NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.'' The public comment period was scheduled to expire on April 1, 2013; however, several stakeholders requested additional time for review to provide more meaningful comments on the draft staff guidance. In order to allow the public sufficient time to review and comment on the draft staff guidance, the NRC has decided to extend the comment period for the draft guidance document until May 1, 2013.

DATES: The comment period has been extended and expires on May 1, 2013. Comments received after this date will be considered if it is practical to do so. The NRC is only able to assure consideration of comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2013–0041. You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0041. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Amy E. Cubbage, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2875, email: *Amy.Cubbage@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0041 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0041.

• *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.*

• *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–2013–0041 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 you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter 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.

Dated at Rockville, Maryland, this 26th day of March 2013.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2013–07437 Filed 3–29–13; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Reconsideration of Initial Determinations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request the Office of Management and Budget (''OMB'') to extend approval, under the Paperwork Reduction Act, of a collection of information under its regulation on Rules for Administrative Review of Agency Decisions. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by May 31, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the Web site instructions for submitting comments.

Email: paperwork.comments@pbgc.gov.

Fax: 202–326–4224.

Mail or Hand Delivery: Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

PBGC will make all comments available on its Web site, *www.pbgc.gov*.

Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting the Disclosure Division or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

PBGC's regulation on Administrative Appeals may be accessed on PBGC's Web site at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Assistant General Counsel, or Donald McCabe, Attorney, Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) prescribes rules governing the issuance of initial determinations by PBGC and the procedures for requesting and obtaining administrative review of initial determinations through reconsideration or appeal. Subpart A of the regulation specifies which initial determinations are subject to reconsideration. Subpart C prescribes rules on who may request reconsideration, when to make such a request, where to submit it, form and content of reconsideration requests, and other matters relating to reconsiderations.

Any person aggrieved by an initial determination of PBGC under § 4003.1(b)(1) (determinations that a plan is covered by section 4021 of ERISA), § 4003.1(b)(2) (determinations concerning premiums, interest, and late payment penalties under section 4007 of ERISA), § 4003.1(b)(3) (determinations concerning voluntary terminations), § 4003.1(b)(4) (determinations concerning allocation of assets under section 4044 of ERISA), or § 4003.1(b)(5) (determinations with respect to penalties under section 4071 of ERISA) may request reconsideration of the initial determination. Requests for reconsideration must be in writing, be clearly designated as requests for reconsideration, contain a statement of the grounds for reconsideration and the relief sought, and contain or reference all pertinent information.

OMB has approved the reconsiderations collection of information under control number 1212–0063 through July 31, 2013. PBGC intends to request that OMB extend approval of this collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that an average of about 700 appellants per year will respond to this collection of information. PBGC further estimates that the average annual burden of this collection of information is about one-half hour and about $500 per person, with an average total annual burden of about 240 hours and about $380,000.

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 25th day of March 2013.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2013–07468 Filed 3–29–13; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30436; File No. 812–13848]

Neuberger Berman ETF Trust and Neuberger Berman Management LLC; Notice of Application

March 25, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Neuberger Berman ETF Trust (the ''Trust'') and Neuberger Berman Management LLC (''NBM'' or

''Adviser'' or ''Distributor'') (collectively, the ''Applicants'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Series of certain actively-managed open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: *Filing Dates:* The application was filed on November 19, 2010, and amended on April 27, 2011, November 22, 2011, May 15, 2012, October 26, 2012 and March 18, 2013.

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 April 19, 2013, 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 Street NE., Washington, DC 20549–1090. Applicants: 605 Third Avenue, New York, NY 10158.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an Applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust will be registered as an open-end management investment company under the Act and is organized as a Delaware statutory trust. The Trust will initially offer one series, the Neuberger Berman Real Return Active ETF (the ''Initial Fund''). The investment objective of the Initial Fund will be to provide risk-adjusted returns through investments in U.S. and foreign equity and fixed income markets. NBM, a Delaware limited liability company, will serve as the investment adviser to the Initial Fund. Each Adviser (as defined below) is or will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').

2. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any other open-end management investment company that is an actively managed exchange-traded fund (''ETF'') and (a) advised by NBM or an entity controlling, controlled by, or under common control with NBM (an ''NBM Affiliate,'' and each of NBM and such NBM Affiliates that serve as an investment adviser to a Fund, an ''Adviser'') and (b) complies with the terms and conditions of the application (collectively, ''Future Funds,'' and together with the Initial Fund, the ''Funds'').[1] An Adviser may enter into subadvisory agreements with respect to the management of the Funds with an NBM Affiliate or other subadviser (each, a ''Subadviser''). Any Subadviser will be registered or not subject to registration under the Advisers Act. NBM, also a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''), will serve as the principal underwriter and distributor of the Funds' shares (''Distributor''). An NBM Affiliate or another broker-dealer that is not an NBM Affiliate may serve as a Fund's Distributor. Any Distributor to any Fund will be registered as a broker-dealer under the Exchange Act.

3. Each Fund will consist of a portfolio of securities (including equity securities and/or fixed income securities), currencies, shares of other ETFs and shares of money market mutual funds or other investment companies that invest primarily in short-term fixed income securities, and other assets traded in the U.S. or non-U.S. markets.[2] Certain Funds may invest in equity securities or fixed income securities traded in international markets (the ''International Funds''). Certain Funds may also invest in ''Depositary Receipts.''[3] Certain Funds may also invest in future ETFs advised by an Adviser pursuant to section 12(d)(1)(G) of the Act or as otherwise permissible under section 12(d)(1) of the Act and the rules thereunder.

4. Applicants anticipate that a Creation Unit will consist of at least 50,000 Shares and that the price of a Share will range from $10 and $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Trust, the Distributor and the transfer agent of the Trust (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A broker or dealer registered under the Exchange Act (''Broker'') or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation, a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC'') or (b) a participant in DTC (such participant, ''DTC Participant''). The Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption

[1] All entities that currently intend to rely on the order are named as Applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. An Investing Fund (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] The Fund's portfolio securities and other assets and positions are referred to herein as ''Portfolio Instruments.'' If a Fund invests in derivatives: (a) The Board periodically will review and approve (i) the Fund's use of derivatives and (ii) how the Fund's investment adviser assesses and manages risk with respect to the Fund's use of derivatives; and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[3] Depositary Receipts are typically issued by a financial institution, a ''depositary,'' and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund will not invest in any Depositary Receipts that the Adviser or Subadviser deems to be illiquid or for which pricing information is not readily available. No affiliated persons of the Applicants, any Future Fund, Adviser or Subadviser will serve as the depositary for any Depositary Receipts held by a Fund.

Instruments'').[4] On any given Business Day [5] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[6] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [7] or (c) TBA transactions,[8] short positions and other positions that cannot be transferred in kind [9] will be excluded from the Creation Basket.[10] If there is a difference between the net asset value (''NAV'') attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

5. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [11] (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because (i) such instruments are not eligible for transfer through either the NSCC Process or DTC Process; or (ii) in the case of International Funds, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because (i) such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of an International Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[12]

6. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (''Exchange''), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. An Exchange will disseminate every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Exchange that day.

7. An investor purchasing or redeeming a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to protect existing shareholders of the Fund from the dilutive costs associated with the purchase and redemption of Creation Units.[13] All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit such orders to the relevant Fund. The Distributor also will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

8. Shares will be listed and traded at negotiated prices on an Exchange and traded in the secondary market. Applicants expect that Exchange specialists (''Specialists'') or market makers (''Market Makers'') will be assigned to Shares. The price of Shares trading on the Exchange will be based on a current bid/offer market. Transactions involving the purchases and sales of Shares on the secondary market will be subject to customary brokerage commissions and charges.

9. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists, or Market Makers, acting in their role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[14]

[4] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[5] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[6] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[7] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[8] A TBA transaction is a method of trading mortgage-backed securities. In a TBA transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and prices. The actual pools delivered generally are determined two days prior to the settlement date.

[9] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[10] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Balancing Amount (defined below).

[11] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax considerations may warrant in-kind redemptions.

[12] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[13] Where a Fund permits an in-kind purchaser to substitute cash in lieu of depositing one or more of the Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of purchasing those particular Deposit Instruments.

[14] If Shares are listed on NASDAQ, no Specialist will be contractually obligated to make a market in Shares. Rather, under NASDAQ's listing requirements, two or more Market Makers will be registered as Market Makers in Shares and required to make a continuous, two-sided market or be subject to regulatory sanctions. No Market Maker or Specialist will be an affiliated person, or an affiliated person of an affiliated person, of the Funds, except within the meaning of Section

Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[15] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

10. Neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' Any advertising material where features of obtaining, buying or selling Creation Units or Shares traded on the Exchange are described or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from a Fund or tender those Shares for redemption to a Fund in Creation Units only.

11. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include the Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium and discount of the market closing price or the Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[16]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust (and any Fund, if applicable) to register as an open-end management investment company and redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution of investment company shares by eliminating price competition from Brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the

2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[15] Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[16] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of the International Funds will be contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets where the International Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process longer than 7 calendar days for International Funds. Applicants therefore request relief from section 22(e) to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each International Fund customarily clear and settle, up to a maximum of 14 calendar days.[17] With respect to Future Funds that are International Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances exist similar to those described in the application. Except as set forth in the application or as disclosed in the SAI for a Fund, deliveries of redemption proceeds for International Funds are expected to be made within seven days.[18]

8. Applicants submit that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants are not seeking relief from section 22(e) with respect to International Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Applicants request relief to permit Investing Funds (as defined below) to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Brokers to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act (''Investing Fund Relief''). Applicants request that these exemptions apply to each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a Participation Agreement (as defined below) with a Fund (such management investment companies are referred to herein as ''Investing Management Companies,'' such unit investment trusts are referred to herein as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together are referred to herein as ''Investing Funds''). Investing Funds do not include the Funds. Each Investing Trust will have a sponsor (''Sponsor'') and each Investing Management Company will have an investment adviser within the meaning of section 2(a)(20)(A) of the Act (''Investing Fund Adviser'') that does not control, is not controlled by or under common control with the Adviser. Each Investing Management Company may also have one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, an ''Investing Fund Subadviser'').[19] Each Investing Fund Adviser and any Investing Fund Subadviser will be registered or not subject to registration as an investment adviser under the Advisers Act.

3. Applicants submit that the proposed conditions to the requested relief are designed to address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

4. Applicants propose a condition to prohibit an Investing Fund or Investing Fund Affiliate from causing an investment by an Investing Fund in a Fund to influence the terms of services or transactions between an Investing Fund an Investing Fund Affiliate and the Fund or Fund Affiliate.[20] Applicants propose a condition to limit the ability of the Investing Fund Adviser, Sponsor, any person controlling, controlled by, or under common control with such Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with such Adviser or Sponsor (''Investing Fund's Advisory Group'') from (individually or in the aggregate) controlling a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Investing Fund Subadviser, any person controlling, controlled by, or under common control with the Investing Fund Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Subadviser, or any person controlling, controlled by, or under common control with the Investing Fund Subadviser (''Investing Fund's Subadvisory Group'').

5. Applicants propose other conditions to limit the potential for an Investing Fund and certain affiliates of an Investing Fund (including Underwriting Affiliates) to exercise undue influence over a Fund and

[17] Rule 15c6–1 under the Exchange Act requires that most transactions be settled within three business days of the trade date. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may have under rule 15c6–1.

[18] Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each International Fund.

[19] An Adviser may serve as subadviser to an Investing Fund.

[20] An ''Investing Fund Affiliate'' is any Investing Fund Adviser, Investing Fund Subadviser, Sponsor, promoter or principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

certain of its affiliates, including that no Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Subadviser, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Subadviser, employee or Sponsor is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to the Fund is covered by section 10(f) of the Act.

6. Applicants propose several conditions to address the concerns regarding layering of fees and expenses. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, an Investing Fund Adviser, trustee of an Investing Trust (''Trustee'') or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, Trustee or Sponsor or an affiliated person of the Investing Fund Adviser, Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, Trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Investing Fund in the Fund. Applicants also propose a condition to prevent any sales charges or service fees charged with respect to shares of an Investing Fund from exceeding the limits applicable to a fund of funds set forth in NASD Conduct Rule 2830.[21]

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

8. To ensure that the Investing Funds understand and comply with the terms and conditions of the requested order, any Investing Fund that intends to invest in a Fund in reliance on the requested order will be required to enter into a participation agreement (''Participation Agreement'') with the Fund. The Participation Agreement will include an acknowledgment from the Investing Fund that it may rely on the order only to invest in the Funds and not in any other investment company.

Sections 17(a)(1) and (2) of the Act

9. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person (''second-tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

10. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units from the Funds by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[23]

11. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Except as described above, the Deposit Instruments and the Redemption Instruments will be the same regardless of the identity of the purchaser or redeemer, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. Both the deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as the Portfolio Instruments held by the relevant Funds. Therefore, applicants state that such valuation method creates no opportunity for affiliated persons or second-tier affiliates to effect a transaction detrimental to other holders of Shares of that Fund. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of any Fund.

12. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants

[21] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to NASD Conduct Rule 2830 that may be adopted by the Financial Industry Regulatory Authority.

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because the Adviser to the Funds is also an investment adviser to an Investing Fund.

[23] Applicants believe most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemption of those Shares. The requested relief also is intended to cover the in-kind transactions that may accompany such sales and redemptions.

note that any consideration paid for the purchase or redemption of Creation Units directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

The Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on an Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. No Adviser or Subadviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed ETFs.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Subadvisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Subadvisory Group with respect to a Fund for which the Investing Fund Subadviser or a person controlling, controlled by or under common control with the Investing Fund Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Subadviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the disinterested Board members, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Subadviser will waive fees otherwise payable to the Investing Fund Subadviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Subadviser, or an affiliated person of the Investing Fund Subadviser, other than any advisory fees paid to the Investing Fund Subadviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Subadviser. In the event that the Investing Fund Subadviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgment.

annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), an Investing Fund will execute a Participation Agreement with the Fund stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) Relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07415 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 4, 2013 at 3:45 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: March 28, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07637 Filed 3–28–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69236; File No. SR–NASDAQ–2013–049]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Rebates for Mini Options

March 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 15, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Chapter XV, Section 2, entitled ''NASDAQ Options Market—Fees and Rebates,'' which governs pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options, to establish fees and rebates for the option contracts overlying 10 shares of a security (''Mini Options'') applicable to NASDAQ members using NOM.[3]

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to modify Chapter XV, Section 2, entitled ''NASDAQ Options Market—Fees and Rebates,'' to establish fees and rebates for Mini Options applicable to NASDAQ members using NOM.

Specifically, the Exchange is proposing to assess market participants on a per trade basis the following fees and rebates on Mini Options:

	Customer	Professional, firm, broker/dealer, non-NOM market maker	NOM market maker
Rebate to Add Liquidity	$0.030	$0.000	$0.015
Fee to Remove Liquidity	$0.049	$0.049	$0.049

The Exchange believes that the $0.030 and $0.015 rebate per trade for Customers and NOM Market Makers, respectively, should encourage these market participants to trade Mini Options on NOM and serves as a means to incentivize order flow and to promote this new infant product for trading on NOM. The Exchange is not offering at this time any rebate per trade to Professionals, Firms, Broker/Dealers, or Non-NOM Market Makers.

The Fee to Remove Liquidity for all market participants will be $0.049 on a per trade basis. The Exchange believes that this is an equitable allocation of reasonable fees since the Exchange is assessing all market participants the same rate to transact trades in Mini Options.

On a per trade basis, the Rebate to Add Liquidity or Fee to Remove Liquidity will be rounded to the nearest $0.01 using standard rounding rules. For example, a NOM Market Maker adding liquidity is contra to a Customer removing liquidity for seven contracts. The NOM Market Maker's total Rebate to Add Liquidity for this transaction will be $0.105 rounded to $0.11 and the Customer will be assessed $0.343 rounded to $0.34.

Additionally, Mini Options volume will not count toward the Penny Pilot and Non-Penny pilot tiers, where applicable.

While the changes to the NOM rules pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on March 18, 2013.

2. Statutory Basis

The Exchange believes that its proposal to amend its rules is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Sections 6(b)(4) of the Act[5] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Even though the Exchange is proposing lower per trade fees as compared to standard option contracts, as it believes is necessary for the product to trade on NOM due to its smaller exercise and assignment value of a Mini Option, the Exchange recognizes the costs to the Exchange to process quotes and orders in Mini Options, perform regulatory surveillance and retain quotes and orders for archival purposes will be comparable to the same as a for a standard contract. The Exchange believes, therefore, that adopting the proposed fees for Mini Options is appropriate, not unreasonable, not unfairly discriminatory and not burdensome on competition between participants or between the Exchange and other exchanges in the listed options market place.

Specifically, the proposed Fee to Remove Liquidity is equitable and not unfairly discriminatory because all market participants will be charged the same fee of $0.049 per contract. The Exchange believes that treating all market participants equally, in turn, will increase order flow and will provide increased liquidity to the market and benefit all participants. The Exchange also believes that the proposed $0.049 per contract Fee to Remove Liquidity is equitable and not unfairly discriminatory because in the current U.S. options market many of the standard contracts are quoted in pennies. Under this pricing structure, the minimum penny tick increment equates to a $1.00 economic value difference per contract, given that a single standardized U.S. options contract covers 100 shares of the underlying stock. Where contracts are quoted in $0.05 increments (non-pennies), the economic value per tick is $5.00 in proceeds to the investor transacting in these contracts. Since the Exchange is planning to file to permit Mini Options to have the same minimum tick as permitted for standard options, including penny increments, the minimum penny tick increment equates to a $0.10 economic value in comparison to fee structures on

[3] *See* Securities Exchange Act Release No. 68720 (Jan. 24, 2013), 78 FR 6382 (Jan. 30, 2013).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

standard options on the make-take exchanges, including NOM, where securities quoted in penny increments are commonly in the $0.30 to $0.45 per contract range. A $0.30 per contract rebate in a penny quoted security is a rebate equivalent to 30% of the value of the minimum tick. A $0.45 per contract fee in a penny quoted security is a charge equivalent to 45% of the value of the minimum tick. For Mini Options the proposed Fee to Remove Liquidity is $0.049 or 49% of the proposed value of that minimum tick, but still less than 50% of the proposed value of that minimum tick as in the case with standard options trading in penny increments today.

The Exchange believes that the proposed Rebate to Add Liquidity for Mini Options is equitable and not unfairly discriminatory because Customers and NOM Market Makers, receiving rebates of $0.030 and $0.015 per trade respectively, would be the only market participants to receive a rebate. The Exchange believes that it is reasonable to assess Customers and NOM Market Makers lower fees as compared to other market participants because these market participants contribute to the market in terms of liquidity and trading environment as compared to other market participants. For NOM Market Makers this includes its specific Market Maker quoting obligations and certain other obligations to the market that do not apply to other market participants.[6] The Exchange believes that the differentiation between the rebates offered to Customers as compared with all other market participants, including NOM Market Makers, is justified and not unfairly discriminatory because it is in recognition of the important contribution that Customers provide to the market place. Increased Customer liquidity benefits all market participants seeking to provide liquidity to Customers.

Finally, the Exchange believes that the proposed fees and rebates are reasonable and not unfairly discriminatory because the fees are consistent with price differentiation that exists today on all option exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that by offering Mini Options it will encourage order flow to be directed to the Exchange, which will benefit all market participants by increasing liquidity on the Exchange. The Exchange will assess a Fee to Remove Liquidity of $0.049 per contract on all market participants, essentially treating market participants equally and ignoring their varying contributions to the market. Additionally, Customers and NOM Market Makers are eligible for a Rebate to Add Liquidity. The Exchange believes these pricing amendments do not impose a burden on competition but rather that the proposed rule change will continue to promote competition on the Exchange and position the Exchange as an attractive alternative when compared to other options exchanges.

The Exchange believes that the adoption of the proposed fees and rebates for Mini Options, which will be listed for trading on one or more exchange, will not impose any unnecessary burden on intramarket competition. The Exchange operates in a highly competitive market, comprised of eleven exchanges, where market participants are highly knowledgeable and can easily and without any material impediments, direct Mini Options orders to the options exchange that they believe is the most attractive for their business.

Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues on other products and therefore must continue to be reasonable and equitably allocated.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–049 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–049. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–049 and should be submitted on or before April 22, 2013.

[6] *See* Exchange Rules Section VII, Market Participants, Sections 5, Obligations of Market Makers, and Section 6, Market Maker Quotations.

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07475 Filed 3–29–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69235; File No. SR–CBOE–2013–036]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Order Type and Auction Rules in Advance of Mini-Option Launch

March 25, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 2013, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend Rules 6.53 (Certain Types of Orders Defined), 6.74 (Crossing Orders), 6.74A (Automated Improvement Mechanism (''AIM'')) and 6.74B (Solicitation Auction Mechanism). Each of these rules sets forth minimum order quantities predicated on an option contract delivering 100 shares. The proposal would amend these rules to maintain the same minimum order quantities in amounts proportional to mini-options delivering 10 shares (*i.e.,* the same number of underlying securities). The Exchange is not proposing to change the substantive content of these rules. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE recently amended its rules to allow for the listing of mini-options that deliver 10 physical shares on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'').[5] Mini-options trading is expected to commence on March 18, 2013.

Standard equity and exchange-traded fund (''ETF'') option contracts have a unit of trading of 100 shares deliverable and mini-options will have a unit of trading of 10 shares deliverable.[6] Except for the difference in the number of deliverable shares, mini-options will have the same terms and contract characteristics as standard equity and ETF options, including exercise style. Accordingly, the Exchange represented in its original mini-option filing that Exchange rules that apply to the trading of standard option contracts will apply to mini-options as well.[7]

Prior to the commencement of trading mini-options, the Exchange proposes to amend Rules 6.53 (Certain Types of Orders Define), 6.74 (Crossing Orders), 6.74A (AIM) and 6.74B (Solicitation Auction Mechanism). Each of these rules sets forth minimum order quantities predicated on an option contract delivering 100 shares. The purpose of the proposed rule change is to amend these rules to maintain the same minimum order quantities in amounts proportional to mini-options delivering 10 shares (*i.e.,* the same number of underlying securities). The Exchange is not proposing to change the substantive content of these rules.

CBOE Rule 6.53(u): Certain Types of Orders Defined—Qualified Contingent Crosses (''QCC'')

CBOE Rule 6.53 sets forth different order types that may be made available on a class-by-class basis for trading on the Exchange. Subparagraph (u) to CBOE Rule 6.53 provides for the availability of QCC orders, which are orders to buy (sell) at least 1,000 standard options that are identified as being a part of a qualified contingent trade coupled with a contra-side order to buy (sell) an equal number of contracts.

A controversial feature of QCC orders is that they ''may execute without exposure provided the execution (1) is not at the same price as a public customer order resting in the electronic book and (2) is at or between the [National Best Bid or Offer]''.[8] The Commission approved the availability of QCC orders in which the order has a minimum size of 1,000 standard option contracts (which is equivalent to 10,000 mini-option contracts). Because QCC orders may be executed without exposure, the Exchange believes that it is imperative to maintain the minimum QCC order size for mini-options that is required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.53(u) to specify that the minimum QCC order size for standard options is 1,000 contracts and the minimum order size for mini-

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 68656 (January 15, 2013), 78 FR 4526 (January 22, 2013) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to List and Trade Option Contracts Overlying 10 Shares of Certain Securities) (SR–CBOE–2013–001). *See* also CBOE Rule 5.5.22.

[6] Strike prices for mini-options will be set at the same level as for standard options. *See* CBOE Rule 5.5.22(b). Bids and offers for mini-options will be expressed in terms of dollars per 1/10th part of the total value of the contract. *See* CBOE Rule 6.41(c). No additional series of mini-options may be added if the underlying security is trading at $90 or less. The underlying security must trade above $90 for five consecutive days prior to listing mini-option contracts in an additional expiration month. *See* CBOE Rule 5.5.22(c).

[7] 78 FR 4527.

[8] *See* CBOE Rule 6.53(u)(ii). CBOE commented extensively when QCC orders were initially proposed by the International Securities Exchange, LLC (''ISE'') and a protracted regulatory review of QCC orders culminated with the Commission approving the introduction of QCC orders, notwithstanding CBOE's strong objections to the order type. *See* Exchange Act Release No. 63955 (February 24, 2011), 76 FR 11533 (March 2, 2011) (SR–ISE–2010–73). CBOE adopted rules to permit QCC orders as a competitive response but continues to remain critical of the order type. *See* Exchange Act Release No. 64653 (June 13, 2011), 76 FR 35491 (June 17, 2011) (SR–CBOE–2011–041).

options is 10,000 contracts. Contra-side orders to sell (buy) must contain an equal number of contracts that are comprised exclusively of the same option type (*i.e.,* all standard options or all mini-options).

CBOE Rule 6.74: Crossing Orders, SizeQuote Mechanism and Tied Hedges

CBOE Rule 6.74 sets forth rules of priority and order allocation procedures that apply to crossing orders in open outcry. Subparagraph (d) to Rule 6.74 provides that Floor Brokers may cross a certain percentage of a public customer order with a facilitation order of the originating firm (*i.e.,* the firm from which the original customer order originated). That provision further provides that the Exchange may determine to include solicited orders within the provision of the rule and may determine (on a class-by-class basis) the eligible size for an order that may be transacted under subparagraph (d), however, the eligible order size may not be less than 50 standard option contracts (which is equivalent to 500 mini-option contracts). The Exchange proposes to maintain the minimum eligible order size for mini-options that is required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.74(d) to specify that the minimum crossing order size for standard options may not be less than 50 contracts and the minimum crossing order size for mini-options may not be less than 500 contracts.

CBOE Rule 6.74(f) sets forth rules regarding the Open Outcry ''SizeQuote Mechanism,'' which is a process by which a Floor Broker may execute and facilitate large-size orders in open outcry. The eligible order size may not be less than 250 standard option contracts (which is equivalent to 2,500 mini-option contracts). The Exchange proposes to maintain the minimum eligible order size for mini-options that is required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.74(f)(i)(A) to specify that the minimum order size for standard options may not be less than 250 contracts and the minimum order size for mini-options may not be less than 2,500 contracts.

The Exchange proposes to make a technical, non-substantive change to CBOE Rule 6.74(f)(i) to delete obsolete rule text that references a pilot program that expired on February 15, 2008.

CBOE Rule 6.74.10 provides that Rule 6.9 (Solicited Transactions) does not prohibit a Trading Permit Holder (''TPH'') or TPH organization from buying or selling a stock, security futures or futures position following receipt of an option order, including a complex order. Prior to announcing such an order to the trading crowd, the option order must be in a class that has been designated eligible for ''tied hedge'' transactions and must be within the designated tied hedge eligibility size parameters, which are established by CBOE on class-by-class basis and which may not be smaller than 500 standard option contracts per order (which is equivalent to 5,000 mini-option contracts). Multiple orders may not be aggregated to satisfy the size parameter. The Exchange proposes to maintain the minimum designated tied hedge eligibility size parameters for mini-options that are required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.74.10 to specify that the minimum order size for standard options may not be smaller than 500 contracts and the minimum order size for mini-options may not be smaller than 5,000 contracts.

CBOE Rule 6.74A: AIM

CBOE Rule 6.74A permits a TPH that represents agency orders to electronically execute an order it represents as an agent (''Agency Order'') against principal interest or against a solicited order provided it submits the Agency Order for electronic execution into the AIM auction pursuant to the requirements of CBOE Rule 6.74A. CBOE Rule 6.74A sets forth minimum size requirements for initiating auctions. Specifically, CBOE Rule 6.74A(a)(1) and (2) provide:

- if the Agency Order is for 50 standard option contracts (which is equivalent to 500 mini-option contracts) or more, the Initiating Trading Permit Holder must stop the entire Agency Order as principal or with a solicited order at the better of the NBBO or the Agency Order's limit price (if the order is a limit order); and
- if the Agency Order is for less than 50 option standard contracts (which is equivalent to 500 mini-option contracts), the Initiating Trading Permit Holder must stop the entire Agency Order as principal or with a solicited order at the better of (A) the NBBO price improved by one minimum price improvement increment, which increment shall be determined by the Exchange but may not be smaller than one cent; or (B) the Agency Order's limit price (if the order is a limit order).

Similarly, CBOE Rule 6.74A(b)(1)(A) sets forth provisions governing the auction period and request for responses (''RFRs''). CBOE Rule 6.74A(b)(1)(A) sets forth order procedures for automatic matching based on size that provide:

- the Agency Order will be stopped at the NBBO (if 50 standard contracts or greater (which is equivalent to 500 mini-option contracts)), or
- one cent/one minimum increment better than the NBBO (if less than 50 contracts (which is equivalent to 500 mini-option contracts)).

The Exchange proposes to maintain the order sizes for mini-options that are required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.74A(a)(2) and (3) and 6.74A(b)(1)(A) to specify that order size for standard options is 50 contracts and the order size for mini-options is 500 contracts.

CBOE Rule 6.74B: Solicitation Auction Mechanism

CBOE Rule 6.74B permits a TPH that represents agency orders to electronically execute orders it represents as agent (''Agency Order'') against solicited orders provided it submits the Agency Order for electronic execution into the solicitation auction mechanism (the ''Auction'') pursuant to the requirements of CBOE Rule 6.74B. CBOE Rule 6.74B requires the Exchange to determine minimum eligible size parameters for participation in Auctions, however, the eligible order size may not be less than 500 standard option contracts (which is equivalent to 5,000 mini-option contracts). The Exchange proposes to maintain the minimum eligibility size parameters for mini-options that are required for standard options in proportion.

Accordingly, CBOE proposes to amend CBOE Rule 6.74B(a)(1) to specify that the minimum order size for standard options may not be less than 500 contracts and the minimum order size for mini-option may not be less than 5,000 contracts.

Standard option series subject to an adjustment will be subject to the minimum order quantities for standard options contained in the CBOE Rules addressed by this filing and mini-option series subject to an adjustment will be subject to the minimum order quantities for mini-options contained in the CBOE Rules addressed by this filing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements

of Section 6(b) of the Act.[9] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors would benefit from the current rule proposal because it would clarify how minimum order quantities that are predicated on an option contract delivering 100 shares will apply to mini-options. The Exchange believes that the marketplace and investors will be expecting clarification by the Exchange on this issue. As a result, the Exchange believes that this change would lessen investor and marketplace confusion because the rules being amended by this filing will be clear as to the application to mini-options.

The Exchange also believes that the current proposal is designed to promote just and equitable principles of trade because it will maintain the same minimum order quantities in amounts proportional to mini-options.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, since mini-options are permitted on multiply-listed classes, the Exchange understands and expects similar rule filings will be submitted by other exchanges to similarly change any order type and auction rules so that their rules that set forth minimum order quantities for standard options will apply in amounts proportional to mini-options. CBOE also believes that the proposed rule change will enhance competition by providing for the same proportional minimum order quantities contained in order type and auction rules to apply to standard and mini-options on the same security.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposed rule change may coincide with the anticipated launch of trading in Mini Options. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[13] Waiver of the operative delay will allow the Exchange to implement its proposal consistent with the commencement of trading in Mini Options as scheduled and expected by members and other participants on March 18, 2013. For these reasons, the Commission designates the proposed rule change as operative upon filing.

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.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–036 and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07414 Filed 3–29–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69238; File No. SR–BATS–2013–020]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to implement pricing applicable to the Exchange's options platform (''BATS Options'') with respect to executions in Mini Options. Mini Options are options that overlie 10 equity or ETF shares, rather than the standard 100 shares.[6] Specifically, the Exchange is proposing that executions in Mini Options will be free for both orders that add to and orders that remove liquidity from the BATS Options book.

Currently, all orders executed on BATS Options are subject to standard pricing, which includes variable fees and/or rebates based on whether the order adds or removes liquidity, the capacity of the order (Professional,[7] Firm, Market Maker,[8] or Customer[9] orders), a Member's average daily trading volume, the amount that a Member increases its total trading volume from month to month, and whether the issue is a penny pilot issue, among others. In addition to standard rebates, orders that add liquidity may be eligible for additional rebates upon execution of orders that originally set a new NBBO[10] as well as executions that qualify for the Exchange's quoting incentive program.[11]

The Exchange is proposing that executions in Mini Options will be free for both orders that add to and orders that remove liquidity from the BATS Options book and that no executions in Mini Options will be eligible for additional liquidity rebates. Specifically, executions in Mini Options will not be eligible for any rebate, including the NBBO setter liquidity rebate or the quoting incentive program liquidity rebates. It should be noted, however, that executions in Mini Options will be counted in calculations of ADV[12] and TCV[13] for purposes of calculating other rebates and fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[14] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

The introduction of pricing for Mini Options, as described above and proposed by this filing, is intended to allow the Exchange to begin trading in Mini Options without charging any fees

[6] *See* Securities Exchange Act Release No. 69018 (March 1, 2013), 78 FR 15090 (March 8, 2013) (Notice of filing and immediate effectiveness allowing Mini Options to be listed and traded on BATS Options) (SR–BATS–2013–013). The Exchange expects to begin listing and trading Mini Options on March 18, 2013.

[7] The term ''Professional'' is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] As defined on the Exchange's fee schedule, the terms ''Firm'' and ''Market Maker'' apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (''OCC'').

[9] As defined on the Exchange's fee schedule, a Customer order refers to an order identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a ''Professional'' as defined in Exchange Rule 16.1.

[10] As defined in Exchange Rule 27.1(11), the term ''NBBO'' is defined to mean the national best bid and offer in an option series as calculated by an Eligible Exchange.

[11] *See* Securities Exchange Act Release No. 69079 (March 8, 2013) (SR–BATS–2013–017) (notice of filing and immediate effectiveness of proposed rule change related to fees for use of BATS Options).

[12] As defined on the Exchange's fee schedule, ADV is average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis. The fee schedule also provides that routed contracts are not included in ADV calculation.

[13] As defined on the Exchange's fee schedule, TCV is total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

or providing any rebates for executions in Mini Options. The Exchange believes that this is a reasonable, fair and equitable approach to pricing, particularly because the Exchange does not have any specific advanced knowledge of how market participants will react to the introduction of Mini Options products. Further, the Exchange believes that the proposal is reasonable because a high level of fees for the execution of Mini Options could negate the viability of such products given the other execution costs market participants will bear, including, but not limited to, clearing fees. In addition, the Exchange believes that this structure is a fair and equitable approach to pricing because it provides certainty for market participants with respect to execution costs across all trades in Mini Options on the Exchange. Lastly, the Exchange also believes that the proposed pricing for Mini Options is non-discriminatory because it will apply equally to all Members.

The Exchange notes that this proposal is not increasing fees or decreasing rebates for any existing products traded on or routed by BATS Options, but rather, the proposal only propose to introduce a pricing structure for Mini Options, which will be available to trade on BATS Options on March 18, 2013.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange notes that this rule change is being proposed as a competitive offering at a time when many other options exchanges are commencing trading of Mini Options. As a result of the competitive environment, market participants will have various pricing models to choose from in making determinations on where to execute transactions in Mini Options. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive if they deem fee levels to be excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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) of the Act [16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2013–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–020 and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07473 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69241; File No. SR–Phlx–2013–36]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Trading QCC and PIXL Orders in Mini Options

March 26, 2013.

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 March 26, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to address the manner in which options contracts overlying 10 shares of a security (''Mini Options'') will trade in a PIXL [3] auction

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL℠). *See* Rule 1080(n).

or as a Qualified Contingent Cross (''QCC'') Order.[4]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to further clarify the manner in which Mini Options will trade in a PIXL auction or as a QCC Order pursuant to Exchange Rule 1080. The Exchange previously filed to list and trade Mini Options.[5] Exchange Rule 1080 entitled ''Phlx XL and Phlx XL II'' describes the manner in which PIXL orders[6] and QCC Orders[7] trade on the Exchange. The Exchange will describe below the manner in which it seeks to clarify Rules 1064 and 1080 with respect to Mini Options.

With respect to PIXL, Rule 1080(n) specifies that a member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker dealer, or any other entity (''PIXL Order'') against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into the PIXL Auction (''Auction'') pursuant to this Rule. The Exchange is proposing to clarify that with respect to Mini Options, the same contract size shall apply consistent with standard options. The Exchange proposes to add a sentence to Rule 1080(n) to note that a Mini Options PIXL Order will trade consistent with standard options.

Today the Exchange provides the Commission certain PIXL pilot reports, including, but not limited to orders of fewer than 50 contracts into the PIXL Auction.[8] The Exchange will also submit to the Commission these same reports with respect to Mini Options for PIXL Orders fewer than 500 contracts as well as the pilot reports for Mini Options in the other categories.[9] The

[4] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer (''NBBO'') and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. *See* Rule 1080(o). *See also* Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR–Phlx–2011–47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (''QCTs'') that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS).

[5] *See* Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126). The Exchange amended amend [sic] Rules 1001 (Position Limits), 1012 (Series of Options Open for Trading) and 1033 (Bids and Offers—Premium) to list and trade Mini Options overlying five (5) high-priced securities for which the standard contract overlying the same security exhibits significant liquidity. Specifically, the Exchange filed to list Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'').

[6] *See* Exchange Rule 1080(n).

[7] *See* Exchange Rule 1080(o). The Exchange is also proposing to amend Rule 1064 entitled ''Crossing, Facilitation and Solicited Orders,'' as this rule also describes the manner in which QCC Orders shall trade on Phlx.

[8] Regarding PIXL Orders of fewer than 50 contracts, the Exchange has undertaken to provide the following information on a monthly basis during the pilot period: (1) The number of orders of fewer than 50 contracts entered into the PIXL Auction; (2) The percentage of all orders of fewer than 50 contracts sent to Phlx that are entered into the PIXL Auction; (3) The percentage of all Phlx trades represented by orders of fewer than 50 contracts; (4) The percentage of all Phlx trades effected through the PIXL Auction represented by orders of fewer than 50 contracts; (5) The percentage of all contracts traded on Phlx represented by orders of fewer than 50 contracts; (6) The percentage of all contracts effected through the PIXL Auction represented by orders of fewer than 50 contracts; (7) The spread in the option, at the time an order of fewer than 50 contracts is submitted to the PIXL Auction; (8) The number of orders of 50 contracts or greater entered into the PIXL Auction; (9) The percentage of all orders of 50 contracts or greater sent to Phlx that are entered into the PIXL Auction; (10) The spread in the option, at the time an order of 50 contracts or greater is submitted to the PIXL Auction; (11) Of PIXL trades where the PIXL Order is for the account of a public customer, and is for a size of fewer than 50 contracts, the percentage done at the NBBO plus $ .01, plus $ .02, plus $ .03, etc.; (12) Of PIXL trades where the PIXL Order is for the account of a public customer, and is for a size of 50 contracts or greater, the percentage done at the NBBO plus $ .01, plus $ .02, plus $ .03, etc.; and (13) Of PIXL trades where the PIXL Order is for the account of a broker dealer or any other person or entity that is not a public customer, and is for a size of fewer than 50 contracts, the percentage done at the NBBO plus $ .01, plus $ .02, plus $ .03, etc. (14) Of PIXL trades where the PIXL Order is for the account of a broker dealer or any other person or entity that is not a public customer, and is for a size of 50 contracts or greater, the percentage done at the NBBO plus $ .01, plus $ .02, plus $ .03, etc.; and (15) The number of orders submitted by Initiating Members when the spread was $ .05, $ .10, $ .15, etc. For each spread, specify the percentage of contracts in orders of fewer than 50 contracts submitted to the PIXL Auction that were traded by: (a) The Initiating Member that submitted the order to the PIXL; (b) Phlx Market Makers assigned to the class; (c) other Phlx members; (d) Public Customer Orders; and (e) unrelated orders (orders in standard increments entered during the PIXL Auction). For each spread, also specify the percentage of contracts in orders of 50 contracts or greater submitted to the PIXL Auction that were traded by: (a) the Initiating Member that submitted the order to the PIXL Auction; (b) Phlx market makers assigned to the class; (c) other Phlx members; (d) Public Customer Orders; and (e) unrelated orders (orders in standard increments entered during the PIXL Auction). *See* Securities Exchange Act Release Nos. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (initial order approving PIXL), 65043 (August 5, 2011), 76 FR 49824 (August 11, 2011), (SR–Phlx–2011–104) (order extending the PIXL pilot program through July 18, 2012); 67399 (July 11, 2012), 77 FR 42048 (July 17, 2012) (SR–Phlx–2012–94) (order extending the PIXL pilot program through July 18, 2013). The PIXL pilot period is set to expire on July 18, 2013. *See* Rule 1080(n).

[9] In the order approving PIXL, the Exchange undertook to provide the Commission with the below information on a monthly basis during the pilot period in addition to the other pilot reports noted herein. The Exchange will provide Mini Options pilot reports for the following categories in addition to the reports noted above, except for reports requiring orders of 50 contracts the Exchange would instead provide reports for orders of 500 contracts with respect to Mini Options: (1) The number of times that the PBBO crossed the PIXL Order stop price on the same side of the market as the PIXL Order and prematurely ended the PIXL Auction, and at what time the PIXL Auction ended; (2) The number of times that a trading halt prematurely ended the PIXL auction and at what time the trading halt ended the PIXL Auction; (3) Of the Auctions terminated early due to the PBBO crossing the PIXL order stop price, the number that resulted in price improvement over the PIXL Order stop price, and the average amount of price improvement provided to the PIXL Order; (4) In the Auctions terminated early due to the PBBO crossing the PIXL order stop price, the percentage of contracts that received price improvement over the PIXL order stop price; (5) Of the Auctions terminated early due to a trading halt, the number that resulted in price improvement over the PIXL Order stop price, and the average amount of price improvement provided to the PIXL Order; (6) In the auctions terminated early due to a trading halt, the percentage of contracts that received price improvement over the PIXL order stop price; and (7) The average amount of price improvement provided to the PIXL Order when the PIXL Auction is not terminated early (*i.e.,* runs the full one second). (8) The number of times an unrelated market or marketable limit order (against the PBBO) on the opposite side of the PIXL Order is received during the Auction Period; and (9) The price(s) at which an unrelated market or marketable limit order (against the PBBO) on the opposite side of the PIXL Order that is received during the Auction Period is executed, compared to the execution price of the PIXL Order. Regarding PIXL auto-match, the Exchange has undertaken to provide the following

Continued

Exchange will provide this information for a particular month not later than the last business day of the subsequent month, as is the case with other PIXL pilot reports.

With respect to QCC Orders, Exchange Rule 1080(o) provides that a QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in subsection [sic] Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The Exchange proposes to permit Mini Option QCC Orders to be defined as an order to buy or sell at least 10,000 contracts, instead of 1,000 contracts. The Exchange proposes to add text to Rule 1080(o) and Rule 1064(e) to note the different quantity required to transact QCC Orders in Mini Options.

The Exchange proposes to commence trading Mini Options on March 28, 2013.[10] The Exchange will not commence trading of Mini Options contracts until specific fees for Mini Options contracts trading have been filed with the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities and [sic] Exchange Act of 1934 (''Exchange Act''),[11] in general, and with Section 6(b)(5) of the Exchange Act,[12] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would allow market participants to take advantage of legitimate investment strategies and execute PIXL Orders and QCC Orders in Mini Options. Additionally, the Exchange believes the proposed rule change will avoid investor confusion by clarifying how Mini Options will trade the same or different as compared to standard options with respect to PIXL Orders and QCC Orders.

The Exchange believes that trading PIXL Orders in Mini Options and standard options in the same manner will avoid investor confusion. Also, the Exchange believes that the current PIXL rules in Rule 1080(n) as applied to Mini Options will promote just and equitable principles of trade and continue to permit fair competition. The Exchange does not believe treating Mini Option and standard option PIXL Orders in a like manner creates any unfair disadvantage to investors.

The Exchange believes that adjusting the quantity of a QCC Orders [sic] in Rule 1080(o) (applicable to electronic orders) and Rule 1064(e) (applicable to floor orders) from 1,000 to 10,000 contracts with respect to QCC Orders will protect investors by maintaining the same number of underlying securities for Mini Options as with standard options. The Exchange believes that maintaining the same number of underlying securities will prevent unfair discrimination among market participants. All members are eligible to transact PIXL Orders and QCC Orders on Phlx.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All members may transact PIXL Orders and QCC Orders on Phlx. The rule change does not permit unfair discrimination and does not impose a burden on Members with respect to trading Mini Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission

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information on a monthly basis during the pilot period: (1) The percentage of all Phlx trades effected through the PIXL Auction in which the Initiating Member has chosen the auto-match feature, and the average amount of price improvement provided to the PIXL Order when the Initiating Member has chosen the auto-match feature vs. the average amount of price improvement provided to the PIXL Order when the Initiating Member has chosen a stop price submission. Regarding competition, the Exchange has undertaken to provide the following information on a monthly basis during the pilot period: (1) For the first Wednesday of each month: (a) The total number of PIXL auctions on that date; (b) the number of PIXL auctions where the order submitted to the PIXL was fewer than 50 contracts; (c) the number of PIXL auctions where the order submitted to the PIXL was 50 contracts or greater; (d) the number of PIXL auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc., and (e) the number of PIXL auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc.; and (2) For the third Wednesday of each month: (a) The total number of PIXL auctions on that date; (b) the number of PIXL auctions where the order submitted to the PIXL was fewer than 50 contracts; (c) the number of PIXL auctions where the order submitted to the PIXL was 50 contracts or greater; (d) the number of PIXL auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc., and (e) the number of PIXL auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc. *See* Securities Exchange Act Release Nos. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (initial order approving PIXL), 65043 (August 5, 2011), 76 FR 49824 (August 11, 2011), (SR–Phlx–2011–104) (order extending the PIXL pilot program through July 18, 2012); 67399 (July 11, 2012), 77 FR 42048 (July 17, 2012) (SR–Phlx–2012–94) (order extending the PIXL pilot program through July 18, 2013). The PIXL pilot period is set to expire on July 18, 2013. *See* Rule 1080(n).

[10] The Exchange noted in SR–Phlx–2012–126 that it would not commence trading of Mini Option contracts until specific fees for Mini Options contracts trading have been filed with the Commission. *See* Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126). The Exchange has filed such fees. *See* SR–Phlx–2013–35 (not yet published).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

waive the 30-day operative delay so that the proposed rule change may coincide with the anticipated launch of trading in Mini Options on the Exchange. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] Waiver of the operative delay will allow the Exchange to implement its proposal consistent with the anticipated commencement of trading in Mini Options on the Exchange on March 28, 2013. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–36 and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07477 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69237; File No. SR–BATS–2013–021]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify pricing applicable to the Exchange's options platform (''BATS Options'') with respect to orders in Mini Options routed by the Exchange and executed at an away options exchange. Mini Options overlie 10 equity or ETF shares, rather than the standard 100 shares.[6] Mini Options are currently approved on the following five (5) underlying securities: SPDR S&P 500 ETF (''SPY''), Apple Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG''), and Amazon.com, Inc. (''AMZN''). BATS

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] *See* Securities Exchange Act Release No. 69018 (March 1, 2013), 78 FR 15090 (March 8, 2013) (Notice of filing and immediate effectiveness allowing Mini Options to be listed and traded on BATS Options) (SR–BATS–2013–013).

Options will begin allowing trading in Mini Options on March 18, 2013.[7]

In conjunction with the beginning of trading in Mini Options on March 18, 2013, the Exchange is proposing to implement pricing for routing orders in Mini Options to other options exchanges. The Exchange is proposing to introduce simple pricing in which the Exchange will charge one of two possible fees for routed orders in Mini Options: one flat rate for all orders in Mini Options that are directed intermarket sweep orders (''Directed ISOs'') that execute at an away options exchange and a separate flat rate for all orders in Mini Options that are not Directed ISOs that are routed to and executed at an away options exchange. The Exchange is proposing to charge these flat rates for routing orders in Mini Options to away options exchanges based on the approximate cost of routing to such venues. These fees are based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.,* clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, ''Routing Costs'').

Based on applicable Routing Costs, the Exchange is proposing to: (i) charge $0.15 per contract for all orders in Mini Options that are Directed ISOs that are routed to and executed at away options exchanges; and (ii) charge $0.10 per contract for all other orders in Mini Options that are routed to and executed at away options exchanges. Notices distributed by other options exchanges indicate that removal fees will range from free to $0.12 per contract executed in Mini Options. In order to provide certainty around execution costs for participants, the Exchange is proposing to introduce these flat routing fees that approximate the Exchange's Routing Costs.

The Exchange is not proposing to modify fees for any of its existing routing services.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[8] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to implement fees for routing Mini Options is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it provides certainty with respect to execution fees at away options exchanges. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for orders in Mini Options routed to and executed at away options exchanges. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges. The Exchange also believes that the proposed fee structure for orders in Mini Options routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange reiterates that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem fee levels to be excessive. Finally, the Exchange notes that it constantly evaluates its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit from routing to another options exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will assist the Exchange in recouping costs for routing orders to other options exchanges on behalf of its participants. The Exchange also notes that Members may choose to mark their orders as ineligible for routing to avoid incurring routing fees.[10] As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem fee levels to be excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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) of the Act[11] and paragraph (f) of Rule 19b–4 thereunder.[12] 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

[7] The three classes are the Nasdaq-100 Index Tracking Stock (''QQQQ''), SPY, and the iShares Russell 2000 Index Fund (''IWM''). QQQQ, SPY, and IWM are quoted in $0.01 for all options series.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See* BATS Rule 21.1(d)(8) (describing ''BATS Only'' orders for BATS Options) and BATS Rule 21.9(a)(1) (describing the BATS Options routing process, which requires orders to be designated as available for routing).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2013–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–021 and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07471 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69239; File No. SR–ICC–2013–04]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Schedule 502 of the ICC Rules for the March 20, 2013 and March 27, 2013 Scheduled Index Series Listings

March 26, 2013.

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 March 12, 2013, ICE Clear Credit LLC (''ICC'') 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 ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4)(i)[4] thereunder so that the 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 persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to update Schedule 502 of the ICC Rules in order to be consistent with the scheduled index series listings occurring on March 20, 2013, and March 27, 2013.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(i).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to update Schedule 502 of the ICC Rules in order to be consistent with the scheduled index series listings occurring on March 20, 2013, and March 27, 2013. The credit default swap indices scheduled to be listed (the ''Scheduled Indices'') are: North American Investment Grade, Series 20, 3-, 5-, 7- and 10-year to be listed on March 20, 2013; Emerging Markets, Series 19, 5-year to be listed on March 20, 2013; North American High Yield, Series 20, 5-year to be listed on March 27, 2013; European iTraxx Main Series 19, 5- and 10-year to be listed on March 20, 2013; European iTraxx XOver Series 19, 5-year to be listed on March 20, 2013; and European iTraxx HiVol Series 19, 5-year to be listed on March 20, 2013. The Scheduled Indices update does not require any changes to the body of the ICC Rules. Also, the Scheduled Indices update does not require any changes to the ICC risk management framework. The only change being submitted is the update to the Scheduled Indices in Schedule 502 of the ICC Rules.

ICC believes that the update to the Scheduled Indices is consistent with the purposes and requirements of Section 17A of the Act[5] and the rules and regulations thereunder applicable to ICC because it will facilitate the prompt and accurate settlement of derivatives agreements.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would 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 been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A).

4(f)(4)(i)[7] thereunder because updating the Scheduled Indices effects a change in an existing service of ICC that does not adversely affect the safeguarding of securities or funds in the custody or control of ICC or for which it is responsible, and does not significantly affect the respective rights or obligations of ICC or the persons using the 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 Number SR–ICC–2013–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2013–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of ICC and on ICC's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_031113.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–ICC–2013–04 and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07474 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 240.19b–4(f)(4)(i).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69240; File No. SR–BOX–2013–18]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend IM–5050–10 (Mini Options Contracts)

March 26, 2013.

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 March 22, 2013, BOX Options Exchange LLC (''BOX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend IM–5050–10 (Mini Options Contracts). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules related to Mini Options traded on the Exchange. Mini Options overlie 10 equity or ETF shares, rather than the standard 100 shares.[3] Mini Options are currently approved on the following five (5) underlying securities: SPDR S&P 500 ETF (''SPY''), Apple Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG''), and Amazon.com, Inc. (''AMZN''). This is a competitive filing that is based on a proposal recently filed for immediate effectiveness by the International Securities Exchange (''ISE'').[4]

The purpose of this proposed rule change is to amend IM–5050–10 (Mini Options Contracts) to codify the minimum contract threshold requirement for the execution of Mini Options in the Exchange's Facilitation Auction and Solicitation Auction. The Facilitation Auction is a process by which an OFP can attempt to execute a transaction wherein the OFP seeks to facilitate a block-size order it represents as agent (''Agency Order''), and/or a transaction wherein the OFP solicited interest to execute against an Agency Order. OFPs must be willing to execute the entire size of Agency Orders entered into the Facilitation Auction through the submission of a contra ''Facilitation Order''.[5] Block-size orders are orders for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68771 (January 30, 2013), 78 FR 8208 (February 5, 2013) (SR–BOX–2013–07). The Exchange began trading Mini Options on March 18, 2013.

[4] *See* Securities Exchange Act Release No. 69163 (March 18, 2013), 78 FR 17733 (March 22, 2013) [sic] (Notice of Filing and Immediate Effectiveness of SR–ISE–2013–23).

[5] *See* BOX Rule 7270(a).

fifty (50) or more contracts.[6] The Solicitation Auction is a process by which an OFP can attempt to execute orders of 500 or more contracts it represents as agent (the ''Agency Order'') against contra orders that it has solicited (''Solicited Order'').[7] Each Agency Order entered into the Solicitation Auction shall be all-or-none. The minimum contract threshold required for the Facilitation Auction and the Solicitation Auction applies to option contracts that overlie 100 shares and therefore does not currently apply to Mini Options.

The Exchange now proposes to amend IM–5050–10 (Mini Options Contracts) to adjust the minimum contract threshold for executing Mini Options in the Facilitation Auction and Solicitation Auction by ten times their current requirement. Thus, Mini Options executed in the Facilitation Auction must be for five hundred (500) or more Mini Option contracts, and Mini Options executed in the Solicitation Auction must be for five thousand (5,000) or more Mini Option contracts.

The Exchange believes it is appropriate to adjust the minimum contract threshold for Mini Options so they are equivalent (same number of underlying securities) to the minimum contract threshold required for standard options that are executed in the Facilitation Auction and Solicitation Auction. The Exchange believes that adjusting the minimum contract threshold will remove any confusion on the part of market participants that want to use these Exchange functionalities to execute Mini Options.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''), in general, and Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the proposed rule change will assure that standard options and Mini Options on the same underlying security will have an equivalent minimum contract threshold for the execution of orders in the Exchange's Facilitation Auction and Solicitation Auction. The Exchange believes the proposed rule change will also avoid investor confusion because in the absence of this proposal, the minimum contract threshold for executing Mini Options in the Facilitation Auction and Solicitation Auction would have been different than that for standard options (*i.e.,* different number of underlying securities). The Exchange does not intend that Mini Options and standard options would have different minimum contract threshold requirements for its various auctions executed on the Exchange. The Exchange further believes that investors and other market participants will benefit from this proposed rule change because it proposes to clarify and establish the minimum contract threshold for executing Mini Options in the Facilitation Auction and Solicitation Auction. The Exchange believes that investors generally will be expecting the minimum contract threshold for Mini Options to be equivalent to the minimum contract threshold for standard options when it comes to executing trades in the Exchange's various auctions in Mini Options on the same underlying security. This proposed rule change will therefore lessen investor confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to the filing submitted by ISE.[8] The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform rules regarding the minimum contract threshold requirement for the execution of Mini Options in the Exchange's Facilitation Auction and Solicitation Auction. The Exchange believes that the proposed rule change will in fact relieve any burden on, or otherwise promote competition. Mini Options are currently approved for trading on multiple options exchanges and all of the options exchanges that have a minimum contract threshold in their rules will have the opportunity to amend their rules to adopt minimum contract thresholds for Mini Options that are equivalent to the minimum contract threshold for standard options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposed rule change may become immediately operative. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[11] The Exchange began trading Mini Options on March 18, 2013, and waiver of the operative delay will allow the Exchange to implement its proposal to codify the minimum contract thresholds for the execution of Mini Options in the Exchange's Facilitation Auction and Solicitation Auction. For these reasons, the Commission designates the proposed rule change as operative upon filing.

[6] *See* IM–7270–2.

[7] *See* BOX Rule 7270(b).

[8] *See supra,* note 4.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day prefiling requirement in this case.

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2013–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–BOX–2013–18.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–BOX–2013–18* and should be submitted on or before April 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07476 Filed 3–29–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8264; Docket No. DOS–2013–0008]

Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee May 14–17, 2013, at the U.S. Department of State, Annex 5, 2200 C Street NW., Washington, DC Portions of this meeting will be closed to the public, as discussed below.

During the closed portion of the meeting, the Committee will review the proposal to extend the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material from the Paleolithic Period Through the Tang Dynasty and Monumental Sculpture and Wall Art At Least 250 Years Old* (''MOU'') [Docket No. DOS–2013–0008]. An open session to receive oral public comment on this proposal will be held on Tuesday, May 14, 2013, beginning at 12:00 p.m. EDT.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.;* ''Act''). The text of the Act and MOU, as well as related information, may be found at *http://culturalheritage.state.gov.* If you wish to attend the open session on May 14, 2013, you should notify the Cultural Heritage Center of the Department of State at (202) 632–6301 no later than 5:00 p.m. (EDT) April 23, 2013, to arrange for admission. Seating is limited. When calling, please specify if you have special accommodation needs. Please plan to arrive 30 minutes before the beginning of the open session. The venue for the open session, which will be held in Washington, DC, will be posted after April 23 at *http://eca.state.gov/cultural-heritage-center.*

If you wish to make an oral presentation at the open session, you must request to be scheduled and must submit a written text of your oral comments, ensuring that it is received no later than April 23, 2013, at 11:59 p.m. (EDT), via the eRulemaking Portal (see below), to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee. All oral and written comments must relate specifically to the determinations under 19 U.S.C. 2602 of the Act, pursuant to which the Committee must make findings. This statute can be found at the Web site noted above.

If you do not wish to make oral comment, but still wish to make your views known, you may send written comments for the Committee to consider. Again, your comments must relate specifically to the determinations under 19 U.S.C. 2602 of the Act. Submit all written materials electronically through the eRulemaking Portal (see below), ensuring that they are received no later than April 23, 2013 at 11:59 p.m. (EDT). Our adoption of this procedure facilitates public participation, implements Section 206 of the E-Government Act of 2002, Public Law 107–347, 116 Stat. 2915, and supports the Department of State's ''Greening Diplomacy'' initiative which aims to reduce the State Department's environmental footprint and reduce costs.

Confidential written comments: If you wish to submit information that is privileged or confidential in your comments, pursuant to 19 U.S.C. 2605(i)(1), you may do so via regular mail, commercial delivery, or hand delivery. Only confidential comments will be accepted via those methods.

As a general reminder, comments submitted by fax or email are not accepted. In the past, twenty copies of texts over five pages in length were requested. Please note that this is no longer necessary; all comments, other than confidential comments, should now be submitted via the eRulemaking Portal only.

Please submit comments only once.

- *Electronic Delivery.* To submit comments electronically, go to the Federal eRulemaking Portal (*http://www.regulations.gov*), enter the Docket No. DOS–2013–0008, and follow the prompts to submit a comment.
- Comments submitted in confidence only: *Regular Mail or Commercial Delivery.* Cultural Heritage Center (ECA/P/C), SA–5, Fifth Floor, U.S. Department of State, Washington, DC

20522–0505. *Hand Delivery.* Cultural Heritage Center (ECA/P/C), U.S. Department of State, 2200 C Street NW., Washington, DC 20037.

Comments submitted in electronic form are not private. They will be posted on the site *http://www.regulations.gov.* Because the comments cannot be edited to remove any identifying or contact information, the Department of State cautions against including any information in an electronic submission that one does not want publicly disclosed (including trade secrets and commercial or financial information that is privileged or confidential pursuant to 19 U.S.C. 2605(i)(1)).

The Department of State requests that any party soliciting or aggregating comments received from other persons for submission to the Department of State inform those persons that the Department of State will not edit their comments to remove any identifying or contact information, and that they therefore should not include any information in their comments that they do not want publicly disclosed.

As noted above, portions of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h), the latter of which stipulates that ''The provisions of the Federal Advisory Committee Act shall apply to the Cultural Property Advisory Committee except that the requirements of subsections (a) and (b) of section 10 and 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the government's negotiation objectives or bargaining positions on the negotiations of any agreement authorized by this title.'' Pursuant to law, executive order, and delegation of authority, I have made such a determination.

Personal information regarding attendees is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

Date March 22, 2013.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–07515 Filed 3–29–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8263]

Notice of Proposal To Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material From the Paleolithic Period Through the Tang Dynasty and Monumental Sculpture and Wall Art At Least 250 Years Old

The Government of the People's Republic of China has informed the Government of the United States of America of its interest in an extension of the Memorandum of Understanding between the Government of the United States of America and the Government of the People's Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material from the Paleolithic Period Through the Tang Dynasty and Monumental Sculpture and Wall Art At Least 250 Years Old (''MOU'').

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this MOU is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the MOU, the Designated List of restricted categories of material, and related information can be found at the following Web site: *http://culturalheritage.state.gov.*

Dated: March 22, 2013.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–07511 Filed 3–29–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8265]

Call for Expert Reviewers to the U.S. Government Review of the Working Group II Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), *Impacts, Adaptation & Vulnerability*.

SUMMARY: The *United States Global Change Research Program*, in cooperation with the *Department of State*, request expert review of the Second Order Draft of the *Working Group II* Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), *Impacts, Adaptation & Vulnerability.*

The *United Nations Environment Programme (UNEP)* and the *World Meteorological Organization (WMO)* established the IPCC in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation. The IPCC develops a comprehensive assessment spanning all the above topics approximately every six years. The First Assessment Report was completed in 1990, the Second Assessment Report in 1995, the Third Assessment Report in 2001, and the Fourth Assessment in 2007.

Three working group volumes and a synthesis report comprise the Fifth Assessment Report. *Working Group I* assesses the scientific aspects of the climate system and climate change; *Working Group II* assesses the vulnerability of socio-economic and natural systems to climate change, potential negative and positive consequences, and options for adapting to it; and *Working Group III* assesses options for limiting greenhouse gas emissions and otherwise mitigating climate change. Procedures for the IPCC and its preparation of reports can be found at the following Web sites:*http://www.ipcc.ch/organization/organization_review.shtml#.UEY0LqSe7x8 http://ipcc.ch/organization/organization_procedures.shtml*

In October 2009, the IPCC approved the outline for the Working Group II contribution to the 5th Assessment Report (Working Group II Table of Contents: *http://www.ipcc-wg2.gov/*

AR5/AR5_documents/doc20-rev1.pdf). Authors were nominated starting in January 2010 and selected in May 2010. All IPCC reports go through two broad reviews: a ''first-order draft'' reviewed by experts, and a ''second-order draft'' reviewed by both experts and governments. The Second Order Draft of the Working Group II contribution to the 5th Assessment Report will be available for review beginning on 29 March 2013.

As part of the U.S. Government Review of the Second Order Draft of the Working Group II Contribution to the 5th Assessment Report, the U.S. Government is soliciting comments from experts in relevant fields of expertise (Again, the Table of Contents for the Working Group contribution can be viewed here: *http://www.ipcc-wg2.gov/AR5/AR5_documents/doc20-rev1.pdf*)

Experts may now register to review the draft report at: *http://review.globalchange.gov*; the report will be available for download once it is released, 29 March 2013. To be considered for inclusion in the U.S. Government submission, comments must be received by 01 May 2013.

The *United States Global Change Research Program* will coordinate collection and compilation of U.S. expert comments and the review of the report by a Review Committee of Federal scientists and program managers in order to develop a consolidated U.S. Government submission, which will be provided to the IPCC by 24 May 2013. Expert comments received within the comment period will be considered for inclusion in the U.S. Government submission. Instructions for registering as a reviewer, the process of the review itself and submission of comments—as well as the Second Order Draft of the report—are available at: *http://review.globalchange.gov.*

Experts may choose to provide comments directly through the IPCC's expert review process, which occurs in parallel with the U.S. government review. More information on the IPCC's comment process can be found at *http://www.ipcc.ch/activities/activities.shtml* and *http://www.ipcc.ch/pdf/ar5/review_of_wg_contributions.pdf.* To avoid duplication, those participating in the U.S. Government Review should not also participate in the Expert Review process which submits comments directly to the IPCC Secretariat. Comments to the U.S. government review should be submitted using the Web-based system at: *http://review.globalchange.gov.*

This certification will be published in the **Federal Register**.

Dated: March 27, 2013.

Trigg Talley,

Director, Office of Global Change, Department of State.

[FR Doc. 2013–07505 Filed 3–29–13; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments and notice of a public hearing.

SUMMARY: On March 20, 2013, the United States Trade Representative (USTR) notified Congress of the Administration's intention to enter into negotiations for a Transatlantic Trade and Investment Partnership (TTIP) agreement with the European Union (EU) aimed at achieving a substantial increase in transatlantic trade and investment. Before initiating such negotiations, the Trade Act of 1974 requires that, with respect to any proposed trade agreement, any interested persons be afforded an opportunity to present his or her view regarding any matters related to the proposed trade agreement. Accordingly, USTR is seeking public comments on the proposed TTIP, including regarding U.S. interests and priorities, in order to develop U.S. negotiating positions. Comments may be provided in writing and orally at a public hearing.

DATES: Written comments are due by midnight, May 10, 2013. Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as a summary of their testimony, by midnight, May 10, 2013. The hearing will be held on May 29 and 30 beginning at 9:30 a.m., at the main hearing room of the United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

ADDRESSES: Public comments should be submitted electronically at *www.regulations.gov.* If you are unable to provide submissions at *www.regulations.gov,* please contact Yvonne Jamison, Trade Policy Staff Committee (TPSC), at (202) 395–3475, to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Yvonne Jamison at the above number. All other questions regarding the TTIP agreement should be directed to David Weiner, Deputy Assistant USTR for Europe, at (202) 395–9679.

SUPPLEMENTARY INFORMATION:

1. Background

The decision to launch negotiations for a TTIP agreement follows a year-long exploratory process conducted by the U.S.-EU High Level Working Group on Jobs and Growth (HLWG), established by President Obama and EU leaders during their November 2011 Summit Meeting, and led by U.S. Trade Representative Ron Kirk and EU Commissioner for Trade Karel De Gucht. USTR provided two opportunities for the public to comment as part of the HLWG mandate in 2012; comments received in response to these solicitations, and during a large number of advisory committee briefings and other meetings with stakeholders, played an important role in shaping the HLWG's recommendations. In its February 11, 2013 Final Report, the HLWG concluded that an agreement that addresses a broad range of bilateral trade and investment policies, as well as global issues of common interest, could generate substantial economic benefits on both sides of the Atlantic. (See *http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/final-report-us-eu-hlwg*).

USTR is observing the consultative and administrative procedures of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804) with respect to notifying and consulting with Congress regarding the TTIP negotiations. These procedures include providing Congress with 90 days advance written notice of the President's intent to enter into negotiations and consulting with appropriate Congressional committees regarding the negotiations. To that end, on March 20, 2013, after having consulted with relevant Congressional committees, the USTR notified Congress that the President intends to enter into negotiations of an agreement with the EU, with the objective of concluding a high-standard agreement that will benefit U.S. workers, manufacturers, service suppliers, farmers, ranchers, innovators, creators, small- and medium-sized businesses, and consumers.

In addition, under the Trade Act of 1974, as amended (19 U.S.C. 2151, 2153), in the case of an agreement such as the proposed TTIP agreement, the President must (i) afford interested persons an opportunity to present their views regarding any matter relevant to the proposed agreement, (ii) designate an agency or inter-agency committee to

hold a public hearing regarding the proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effect on U.S. industries and consumers of the modification of tariffs on imports pursuant to the proposed agreement. USTR intends to hold a public hearing on specific issues pertaining to the proposed negotiations on May 29 and 30, 2013. In addition, USTR has requested that the ITC provide advice to USTR on the probable economic effects of an agreement.

2. Public Comments

Written Comments: The TPSC Chair invites interested parties to submit written comments to assist USTR as it works with other U.S. government agencies and continues to consult with Congress to develop U.S. negotiating objectives and proposals for the proposed TTIP agreement. Comments may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States (HTSUS) that are products of the EU, any concession that should be sought by the United States, or any other matter relevant to the proposed agreement. The TPSC Chair invites comments on all of these matters and, in particular, seeks comments regarding:

(a) General and product-specific negotiating objectives for the proposed agreement;

(b) economic costs and benefits to U.S. producers and consumers of removal of tariffs and removal or reduction in non-tariff barriers on articles traded with the EU;

(c) treatment of specific goods (described by HTSUS numbers) under the proposed agreement, including comments on—

(1) product-specific import or export interests or barriers,

(2) experience with particular measures that should be addressed in the negotiations, and

(3) approach to tariff negotiations, including recommended staging and ways to address export priorities and import sensitivities in the context of the proposed agreement;

(d) adequacy of existing customs measures to ensure that duty rates under an agreement with the EU apply only to goods eligible to receive such treatment, and appropriate rules of origin for goods entering the United States under the proposed agreement;

(e) existing sanitary and phytosanitary measures and technical barriers to trade that should be addressed in the negotiations;

(f) opportunities for greater transatlantic regulatory compatibility, including concrete ideas on how greater compatibility could be achieved in a particular economic sector, without diminishing the ability of the United States to continue to meet legitimate regulatory objectives, for example with respect to health, safety and the environment, and which sectors should be the focus of such efforts;

(g) opportunities to reduce unnecessary costs and administrative delays stemming from regulatory differences, including how that could be achieved in a particular economic sector;

(h) opportunities to enhance customs cooperation between the United States and the EU and its member states, ensure transparent, efficient, and predictable conduct of customs operations, and ensure that customs measures are not applied in a manner that creates unwarranted procedural obstacles to trade;

(i) existing barriers to trade in services between the United States and the EU that should be addressed in the negotiations;

(j) relevant electronic commerce and cross-border data flow issues that should be addressed in the negotiations;

(k) relevant investment issues that should be addressed in the negotiations;

(l) relevant competition-related matters that should be addressed in the negotiations;

(m) relevant government procurement issues, including coverage of any government agencies or state-owned enterprises engaged in procurements of interest, that should be addressed in the negotiations;

(n) relevant environmental issues that should be addressed in the negotiations;

(o) relevant labor issues that should be addressed in the negotiations;

(p) relevant transparency and anticorruption issues that should be addressed in the negotiations; and

(q) relevant trade-related intellectual property rights issues that should be raised with the EU.

In addition to the matters described above, the TPSC invites comments on new principles or disciplines addressing emerging challenges in international trade that should be pursued in the negotiations and that would benefit U.S.-EU trade as well as strengthen the multilateral rules-based trading system and support other trade-related priorities, including, for example, with respect to state-owned enterprises, ''localization'' barriers to trade, and other developments on which the United States and the EU may share similar concerns.

At a later date, USTR, through the TPSC, will publish notice of reviews regarding (a) the possible environmental effects of the proposed agreement and the scope of the U.S. environmental review of the proposed agreement, and (b) the impact of the proposed agreement on U.S. employment and labor markets.

Oral Testimony: A hearing will be held on May 29 and May 30 in the Main Hearing Room at the U.S. International Trade Commission, 500 E St. SW., Washington, DC 20436. Persons wishing to testify at the hearing must provide written notification of their intention by May 10, 2013. The intent to testify notification must be made in the ''Type Comment'' field under docket number USTR–2013–0019 on the regulations.gov Web site and should include the name, address and telephone number of the person presenting the testimony. A summary of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC.

3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) the ''Transatlantic Trade and Investment Partnership.'' In order to be assured of consideration, comments should be submitted by May 10, 2013.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov*, enter docket number USTR–2013–0019 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those

two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov,* if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison should be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov*.

4. Public Inspection of Submissions

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *http:www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2013–07430 Filed 3–29–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0087]

Limited Service Exclusion for Household Goods Motor Carriers and Related Registration Requirements for Brokers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for public comment.

SUMMARY: FMCSA provides notice and requests comments on the Agency's process for determining the appropriate use of the Limited Service Exclusion (LSE), a statutory exception to the definition of Household Goods (HHG) motor carrier provided at 49 U.S.C. 13102(12)(C). In addition, this notice explains the registration requirements of brokers that arrange for the transportation of shipments that are eligible for the LSE.

DATES: You must submit comments on or before May 1, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2013–0087 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, (M–30), U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building Ground Floor, Room 12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. All submissions must include the Agency name and docket number for this notice. See the ''Public Participation'' heading below for instructions on submitting comments and additional information.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rodgers, Commercial Enforcement and Investigations Division, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (202)366–3031 or *CIE_mailbox@dot.gov.* Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal and/or copyrighted information you provide.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0087), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''FMCSA–2013–0087'' in the ''Search'' box, and then click the ''Search'' button to the right of the white box. Click on the top ''Comment Now'' box which appears next to the notice. Fill in your contact information, as desired and your comment, uploading documents if appropriate. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this enforcement policy based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov* and insert ''FMCSA–2013–0087'' in the ''Search'' box and and then click on ''Search.'' Click on the ''Open Docket Folder'' link and all the information for the notice, and the list of comments will appear with a link to each one. Click on the comment you would like to read. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of

the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act

All comments received will be posted with personal information you have provided to *http://www.regulations.gov.* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

Background

The Limited Service Exclusion (LSE) is a statutory provision that pertains to the definition of ''household goods motor carrier'' at 49 U.S.C. 13102(12)(C). Congress defined a HHG motor carrier in 49 U.S.C. 13102(12)(A) as a ''motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services: (i) Binding and nonbinding estimates; (ii) Inventorying; (iii) Protective packing and unpacking of individual items at personal residences; and (iv) Loading and unloading at personal residences.''

Through the LSE, Congress specifically excluded certain motor carriers from the definition of HHG motor carrier: ''[W]hen the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier) . . .'' the carrier is not considered a HHG motor carrier. 49 U.S.C. 13102(12)(C). Transportation falling under the LSE is not subject to the consumer protection regulations applicable to HHG shipments at 49 CFR Part 375, HHG motor carrier registration requirements at 49 CFR Part 365, or the cargo insurance requirements at 49 CFR Part 387.

The FMCSA is issuing this notice to provide clarity on those transportation services which fall within the scope of the LSE. The Agency has examined the legislative history relating to this provision, which makes clear that Congress intended to distinguish traditional, full service moving companies that offer some or all of the ''additional services'' noted above from ''a motor carrier solely providing transportation of household goods entirely packed in, or unpacked from, one or more containers….'' Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, § 4202(b), Public Law 109–59, Conf. Rep. No. 109–203.

The FMCSA understands that Congress thereby intended to create an economic opportunity for companies providing a lower cost, ''no frills'' moving option for shippers willing to pack their own belongings or to hire separate labor. Congress directed, however, that the loading and unloading may not be provided by an agent or employee of the company transporting the packed container.

Enforcement Policy and Process

Regarding the applicability of the LSE to specific entities, given the varied nature of the moving industry, FMCSA has concluded that whether an individual motor carrier is or is not eligible for the LSE must be determined on a case-by-case basis, taking into account the entirety of the relationship between a motor carrier and the individual that loads and unloads the HHG.

For enforcement purposes, the factors relevant to the determination of whether or not the LSE should apply are:

(1) Web site statements and other advertising, including claims or statements implying that the container company will provide HHG packing or other specialized services, or, by contrast, disclaiming HHG motor carrier status and clarifying that the company does not provide such services;

(2) The level of control by the motor carrier over the individual providing packing and loading services;

(3) The organizational structure of the motor carrier and the relationship of that entity to the individual providing loading and unloading services;

(4) Commonality of employees between the motor carrier and any entity providing loading and unloading services, including, but not limited to corporate officers;

(5) The nature of referrals for loading and packing services;

(6) The nature and extent of business income derived from the referral for packing and loading services;

(7) Other factors that may be relevant to defining the relationship between the motor carrier and individual providing packing and loading services; or

(8) Other factors relevant to a determination that a motor carrier holds itself out as providing ''full service'' HHG services.

FMCSA believes that Congress did not intend the LSE as a mechanism for companies engaged in traditional household goods moving to evade regulatory oversight. Thus, the Agency will examine very closely any company statements on the Internet or in other advertising claiming to offer ''full service moving'' or similar comprehensive moving service packages. The Agency will generally deem companies holding themselves out as HHG movers through such statements to be, in fact, HHG movers and ineligible for the LSE.

By statute, the LSE also does not apply where the relationship between a motor carrier and the individual that loads or unloads the HHG is determined to be that of an employer/employee or principal/agent. Under these circumstances, FMCSA will consider the container company a HHG motor carrier if it meets the definition of HHG motor carrier under 49 U.S.C. 13102(12)(A).

While no single factor is paramount in assessing the business relationships between a container company and loading/packing labor, the extent of a motor carrier's control over the individual performing the loading/packing service is highly significant. Generally, the closer the relationship between the motor carrier and the individual loading/unloading the HHG, the less likely the motor carrier will be to qualify for the LSE. FMCSA will take into account the totality of the circumstances in defining the relationship between the motor carrier and the individual loading and unloading. As noted, FMCSA determines eligibility for the LSE on a case by case basis, utilizing factors including those above.

We are seeking comments on the Agency's factors for determining if the operation is eligible for the LSE.

The following examples illustrate how FMCSA would determine if the LSE applies.

Example A

Bach's Movers, a container company, advertises itself as ''The Lowest Cost Moving Option'' on its company Web site. The Web site has a link to ''XYZ Moving Helpers'' and recommends that Bach's customers contact XYZ directly for assistance with packing and unpacking. FMCSA investigation reveals that XYZ pays Bach's a 3 percent referral fee for every customer that contracts with XYZ after visiting Bach's Web site. Two of Bach's employees work part time for XYZ on weekends. The two companies have separate management, however, and FMCSA has

no information suggesting that Bach's owns or controls the operations of XYZ. Bach's is eligible for the LSE and is not a HHG mover.

Example B

Q-Bic Crates Movers, Inc. claims on its Web site to be a ''Top Notch Moving Company'' and to provide ''the lowest cost, high quality moving services.'' Q-Bic Crates provides binding and nonbinding estimates and inventorying services. The company's Web site refers customers to Q-Bic Muscles, Inc. for assistance with packing and unpacking. FMCSA has received complaints that when Q-Bic Crates employees deliver containers to shippers' homes, they attempt to pressure shippers into signing agreements for labor from Q-Bic Muscles. Investigation reveals that Q-Bic Crates Movers and Q-Bic Muscles have owners and officers in common, are run out of the same location and pool their revenue to pay salaries to several of the same individuals. Approximately 95 percent of Q-Bic Muscles' revenue is from Q-Bic Crates customers. Q-Bic Crates is not eligible for the LSE and must comply with the consumer protection and other regulations applicable to HHG motor carriers.

Definition of the Term ''Agent''

One determinant of whether or not a carrier is providing transportation that qualifies for the LSE is whether an ''agent'' of the carrier is performing loading and unloading services. The FMCSA defines the term ''agent'' by applying its commonly accepted meaning: ''one who is authorized to act for or in place of another; a representative.'' Black's Law Dictionary, (8th ed. 2004). ''Agency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control and the agent manifests assent or otherwise so consents to act.'' Restatement (Third) of Agency § 1.01. What does or does not constitute authorization to act for or in place of another will depend upon the details and circumstances of the parties' relationship.

Whether an Entity Is Operating as a HHG Broker

The FMCSA defines a ''household goods broker,'' in part, as a person that arranges ''for transportation of household goods by motor carrier for compensation.'' 49 CFR 371.103. Therefore, whether or not a broker is a ''household goods broker'' is based upon whether ''transportation of household goods'' is taking place. The FMCSA and its predecessor, the Interstate Commerce Commission (ICC), have long focused on the nature of the service, as opposed to the physical goods being transported, to determine whether HHG transportation is taking place. *See e.g., American Intermodal Services, Inc., Extension—Nationwide Contract Carrier Service,* 1987 WL 100149, at *2 (ICC decided Dec. 22, 1987) (''[T]he mere transportation of containerized household goods without the provision of the specialized service or equipment normally required for such commodities is not within the definition of household goods transportation and may be performed under 'general commodities (except household goods)' authority.''). In June 2001, FMCSA issued an opinion that was in agreement with the underlying rationale of the ICC decisions—that the HHG regulatory requirements are directed at a discrete segment of the transportation industry that provides specialized services in specialized equipment. Therefore, arranging for shipments that are transported subject to the LSE will not convert a property broker into a ''household goods broker,'' as FMCSA does not consider the underlying transportation to be the ''transportation of household goods.''

Moreover, 49 CFR 371.105 states that ''[y]ou may only act as a household goods broker for a motor carrier that has a valid, active U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce.'' In other words, HHG brokers may not act as property brokers (''You may only act as a household goods broker * * *''). Unless HHG brokers have separate property broker authority, they are not permitted to perform brokerage of regular freight loads or for carriers that do not have valid HHG operating authority. Thus, a HHG broker is an entity that brokers transportation for a HHG motor carrier. However, as defined in 49 U.S.C. 13102(12)(C), a motor carrier operating subject to the LSE is not considered a HHG motor carrier. Accordingly, the entity that brokers such transportation is not a HHG broker.

However, as with a container company that engages in activities associated with HHG movements, if a broker makes claims on its Web site or elsewhere about ''full service moving'' or other specialized services, FMCSA may investigate whether the broker meets the definition of HHG broker, i.e., ''holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation of household goods by motor carrier for compensation.'' 49 CFR 371.103. If FMCSA makes such a finding, the broker would be subject to the consumer protection regulations at 49 CFR part 371, subpart B ''Special Rules for Household Goods Brokers.'' In analyzing a broker's regulatory status, FMCSA will look at whether the broker is making claims that it arranges services for HHG motor carriers as defined at 49 U.S.C. § 13102(12)(A). Those carriers offer some or all of the following services: Binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items at personal residences and loading and unloading at personal residences.

In sum, only property broker authority is required when arranging for the transportation of shipments eligible for the LSE. However, if a broker also performs activities constituting the arrangement of ''transportation of household goods by motor carrier for compensation'' (49 CFR 371.103), it needs HHG brokerage authority as well.

Issued on: March 25, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–07460 Filed 3–29–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and Request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments—12 CFR part 24.''

DATES: Comments must be submitted on or before May 31, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0194, 400 7th Street, SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

The OCC is proposing to extend the following information collection:

Title: Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments—12 CFR part 24

OMB Control No.: 1557–0194.

Description: This submission covers an existing regulation and revisions to the Part 24, CD–1, National Bank Community Development Investments form contained in the regulation, pursuant to which a national bank may notify the OCC, or request OCC approval, of certain community development investments.

Section 24.5(a) provides that an eligible national bank may make an investment without prior notification to, or approval by, the OCC if the bank submits an after-the-fact notification of an investment within 10 days of making the investment.

Section 24.5(a)(5) provides that a national bank that is not an eligible bank, but that is at least adequately capitalized, and has a composite rating of at least 3 with improving trends under the Uniform Financial Institutions Rating System, may submit a letter to the OCC requesting authority to submit after-the-fact notices of its investments.

Section 24.5(b) provides that if a national bank does not meet the requirements for after-the-fact notification, the bank must submit an investment proposal to the OCC.

The OCC requests that OMB approve its revised estimates and extend its approval of the information collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 880.

Estimated Total Annual Responses: 880.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 1365 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 26, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2013–07461 Filed 3–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2004–11

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2004–11, Research Credit Record Retention Agreements.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the Internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Research Credit Record Retention Agreements.

OMB Number: 1545–1859.

Notice Number: Notice 2004–11.

Abstract: Notice 2004–11 announces a pilot program in which the Internal Revenue Service and large and mid-size

business taxpayers may enter into research credit recordkeeping agreements (RCRAs). If the taxpayer complies with the terms of the RCRA, the Service will deem the taxpayer to satisfy the recordkeeping requirements of section 6001 for purposes of the credit for increasing research activities under section 41 of the Internal Revenue Code.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 65.

Estimated Average Time per Respondent: 18 hours.

Estimated Total Annual Burden Hours: 1,170.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07527 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–20, Certification for No Information Reporting on the Sale of a Principal Residence; REG–105170–97 (TD 8930) and REG–112991–01 (TD 9104), Credit for Increasing Research Activities (§ 1.41–8(b)); Form 12815, Return Post Card for the Community Based Outlet Participants; the Tip Rate Determination Agreement (for use by employers in the food and beverage industry); and REG–107186–00 (TD 9114), Electronic Payee Statements.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* Certification for No Information Reporting on the Sale of a Principal Residence.

OMB Number: 1545–1592.

Form Number: Rev Proc. 98–20.

Abstract: This revenue procedure sets forth the acceptable form of the written assurances (certification) that a real estate reporting person must obtain from the seller of a principal residence to except such sale or exchange from the information reporting requirements for real estate transactions under section 6045(e)(5) of the Internal Revenue Code.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or household and Business or other for-profit organizations.

Estimated Number of Respondents: 2,300,000.

Estimated Time per Respondent: 10 minutes.

Estimated Annual Burden Hours for Respondents: 383,000.

Estimated Number of Recordkeepers: 90,000.

Estimated Time per Recordkeeeper: 25 minutes.

Estimated Annual Burden Hours for Recordkeepers: 37,500.

(2) *Title:* Credit for Increasing Research Activities.

OMB Number: 1545–1625.

Form Number: REG–105170–97 (TD 8930) and REG–112991–01 (TD 9104).

Abstract: These final regulations relate to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d). These regulations are intended to provide (1) guidance concerning the requirements necessary to qualify for the credit for increasing research activities, (2) guidance in computing the credit for increasing research activities, and (3) rules for electing and revoking the election of the alternative incremental credit.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 5.

Estimated Time per Respondent: 50 hours.

Estimated Total Annual Reporting Burden hours: 250.

(3) *Title:* Return Post Card for the Community Based Outlet Participants.

OMB Number: 1545–1703.

Form Number: 12815.

Abstract: This post card is used by the Community Based Outlet Program (CBOP) participants (*i.e.* grocery stores/pharmacies, copy centers, corporations,

credit unions, city/country governments) to order products. The post card will be returned to the Western Area Distribution Center for processing.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 834.

(4) *Title:* For Tip Rate Determination Agreement (for Use by Employers in the Food and Beverage Industry).

OMB Number: 1545–1715.

Form Number: N/A.

Abstract: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Average Time per Respondent: 11 hours.

Estimate Total Annual Burden Hours: 1,737.

(5) *Title:* Electronic Payee Statements.

OMB Number: 1545–1729.

Form Number: TD 9114.

Abstract: In general, under these regulations, a person required to furnish a statement on Form W 2 under Code sections 6041(d) or 6051, or Forms 1098 T or 1098 E under Code section 6050S, may furnish these statements electronically if the recipient consents to receive them electronically, and if the person furnishing the statement (1) makes certain disclosures to the recipient, (2) annually notifies the recipient that the statement is available on a Web site, and (3) provides access to the statement on that Web site for a prescribed period of time.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individual or households.

Estimated Number of Respondents: 28,449,495.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 2,844,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–07558 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8879–B, IRS *e-file* Signature Authorization for Form 1065–B.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRS *e-file* Signature Authorization for Form 1065–B.

OMB Number: 1545–2043.

Form Number: 8879–B.

Abstract: A general partner or a limited liability company member manager (LLC member manager) and an electronic return originator (ERO) use Form 8879–B when the general partner or LLC member manager wants to use a personal identification number (PIN) to electronically sign an electing large partnership's electronic income tax return, and, if applicable, consent to an electronic funds withdrawal.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 60.

Estimated Time per Respondent: 4 hours 33 minutes.

Estimated Total Annual Burden Hours: 273.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration

of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07514 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Obligations of States and Political Subdivisions.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Obligations of States and Political Subdivisions.

OMB Number: 1545–1730.

Regulation Project Number: TD 8941.

Abstract: Section 421(f)(4) of the Internal Revenue Code of 1986 permits a person engaged in the local furnishing of electric energy or gas that uses facilities financed with exempt facility bonds under section 142(a)(8), and that expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and 142(f) to make an election to ensure that those bonds will continue to be treated as tax-exempt bonds. The final regulations (1.142(f–1) set forth the required time and manner of making this statutory election.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Respondents: 15.

Estimated Time per Respondent: 1 hour.

Estimate Total Annual Burden Hours: 15.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07530 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2007–21

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2007–21, Regarding 6707/6707A Rescission Request Procedures.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure Regarding 6707/6707A Rescission Request Procedures.

OMB Number: 1545–2047.

Revenue Procedure Number: Revenue Procedure 2007–21.

Abstract: This revenue procedure provides guidance to persons who are assessed a penalty under section 6707A or 6707 of the Internal Revenue Code, and who may request rescission of those penalties from the Commissioner.

Current Actions: There are no changes being made to this revenue procedure.

Type of Review: Extension of a previously approved collection.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 859.

Estimated Time per Respondent: 0.5 hours.

Estimated Total Annual Burden Hours: 429.50.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07562 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8282, Donee Information Return (Sale, Exchange or Other Disposition of Donated Property) and Form 8283, Noncash Charitable Contributions; Form 8716, Election To Have a Tax Year Other Than a Required Tax Year; Form 706–QDT, U.S. Estate Tax Return for Qualified Domestic Trusts; INTL–24–94 (TD 8671), Taxpayer Identifying Numbers (TINs) (§ 301.6109–1); and T.D. 9032, Election to Treat Trust as Part of an Estate (§ 1.645–1).

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202)622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* Donee Information Return (Sale, Exchange or Other Disposition of Donated Property) (Form 8282) and Noncash Charitable Contributions (Form 8283).

OMB Number: 1545–0908.

Form Number: 8282 and 8283.

Abstract: Internal Revenue Code section 170(a)(1) and regulation section 1.170A–13(c) require donors of property valued over $5,000 to file certain information with their tax return in order to receive the charitable contribution deduction. Form 8283 is used to report the required information. Code section 6050L requires donee organizations to file an information return with the IRS if they dispose of the property received within two years. Form 8282 is used for this purpose.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or household and Business or other for-profit organizations.

Form 8282:

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 9 hours, 24 minutes.

Estimated Total Annual Burden Hours: 9,400.

Form 8283:

Estimated Number of Respondents: 3,144,666.

Estimated Time per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 7,805,692.

(2) *Title:* Election To Have a Tax Year Other Than a Required Tax Year.

OMB Number: 1545–1036.

Form Number: 8716.

Abstract: Form 8716 is filed by partnerships S corporations, S corporations, and personal service corporations under Internal Revenue Code section 444(a) to elect to retain or to adopt a tax year that is not a required tax year. The form provides IRS with information to determine that the section 444(a) election is properly made and identifies the tax year to be retained, changed, or adopted.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 40,000.

Estimated Time per Respondent: 3 hrs, 26 min.

Estimated Total Annual Reporting Burden hours: 204,400.

(3) *Title:* U.S. Estate Tax Return for Qualified Domestic Trusts.

OMB Number: 1545–1212.

Form Number: 706–QDT.

Abstract: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code section 2056A. The IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 80.

Estimated Time per Respondent: 4 hours 28 minutes.

Estimated Total Annual Burden Hours: 357.

(4) *Title:* Taxpayer Identifying Numbers (TINs).

OMB Number: 1545–1461.

Form Number: INTL–24–94 (TD 8671).

Abstract: This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number on their tax returns.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

The burden for the collection of information is reflected in the burden for Form W–7, Application for IRS Individual Tax Identification Number (For Non-U.S. Citizens or Nationals).

(5) *Title:* Election to Treat Trust as Part of an Estate.

OMB Number: 1545–1578.

Form Number: TD 9032.

Abstract: This regulation describes the procedures and requirements for making an election to have certain revocable trusts treated and taxed as part of an estate. The Taxpayer Relief Act of 1997 added section 646 to the Internal Revenue Code to permit the election.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–07560 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720–TO, Terminal Operator Report; Form 8734, Support Schedule for Advance Ruling Period; Form 8806, Information Return for Acquisition of Control or Substantial Change in Capital Structure; Revenue Procedure 2004–12, Health Insurance Costs of Eligible Individuals; and Form 8908, Energy Efficient Home Credit.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* Terminal Operator Report.

OMB Number: 1545–1734.

Form Number: 720–TO.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effect has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 504,000.

Estimated Time per Respondent: 4 hours, 40 minutes.

Estimated Annual Burden Hours for Respondents: 2,347,020.

(2) *Title:* Support Schedule for Advance Ruling Period.

OMB Number: 1545–1836.

Form Number: 8734.

Abstract: Form 8734 is used by charities to furnish financial information that Exempt Organization Determinations of IRS can use to classify a charity as a public charity.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 16,000.

Estimated Time per Respondent: 34 hours, 19 minutes.

Estimated Total Annual Reporting Burden hours: 549,120.

(3) *Title:* Information Return for Acquisition of Control or Substantial Change in Capital Structure.

OMB Number: 1545–1869.

Form Number: 8806.

Abstract: Form 8806 is used to report information regarding transactions involving acquisition of control or substantial change in capital structure under section 6043.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time per Respondent: 11 hours, 18 minutes.

Estimated Total Annual Burden Hours: 113.

(4) *Title:* Health Insurance Costs of Eligible Individuals.

OMB Number: 1545–1875.

Form Number: Rev. Proc. 2004–12.

Abstract: Revenue Procedure 2004–12 informs states how to elect a health program to be qualified health insurance for purposes of the health coverage tax credit (HCTC) under section 35 of the Internal Revenue Code. The collection of information is voluntary. However, if a state does not make an election, eligible residents of the state may be impeded in their efforts to claim the HCTC.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: States, Local or Tribal Government.

Estimated Number of Respondents: 51.

Estimated Average Time per Respondent: 30 minutes.

Estimate Total Annual Burden Hours: 26.

(5) *Title:* Energy Efficient Home Credit.

OMB Number: 1545–1979.

Form Number: 8909.

Abstract: Congress passed Public Law 109–58, the Energy Policy Act of 2005, on August 8, 2005, enacting legislation providing a tax credit for contractors producing new energy efficient homes. We created Form 8908 to reflect new code section 45L which allows qualified contractors to claim a credit for each qualified energy-efficient home sold in tax years ending after December 31, 2005.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 198,000.

Estimated Time per Respondent: 2 hours, 35 minutes.

Estimated Total Annual Burden Hours: 512,820.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–07557 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2006–42

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2006–42, Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson, (202) 622–3869, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense,

Research and Experimental Expenditures Under Section 1.861.

OMB Number: 1545–2040.

Revenue Procedure Number: Revenue Procedure 2006–42.

Abstract: This revenue procedure provides administrative guidance under which a taxpayer may obtain automatic consent to change (a) from the fair market value method or from the alternative tax book method to apportion interest expense or (b) from the sales method or the optional gross income methods to apportion research and experimental expenditures.

Current Actions: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions, and individuals or households.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07563 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Disclosure Requirements With Respect to Prohibited Tax Shelter Transactions.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622–3869, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclosure Requirements With Respect to Prohibited Tax Shelter Transactions.

OMB Number: 1545–2079.

Form Number: TD 9334.

Abstract: This document contains final regulations that provide guidance under section 4965 of the Internal Revenue Code (''Code''), relating to excise taxes with respect to prohibited tax shelter transactions to which tax-exempt entities are parties, and sections 6033(a)(2) and 6011(g) of the Code, relating to certain disclosure obligations with respect to such transactions.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 6,500.

Estimated Time per Respondent: 15 hours 9 minutes.

Estimated Total Annual Burden Hours: 98,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 20, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07516 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506–T Request for Transcript of Tax Return.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 622–3869, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Transcript of Tax Return.

OMB Number: 1545–1872.

Form Number: Form 4506–T.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related products. Form 4506–T is used to request all products except copies of returns. The information provided will be used to search the taxpayers account and provide the requested information and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 720,000.

Estimated Time per Respondent: 1 hr., 2 min.

Estimated Total Annual Burden Hours: 555,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07524 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Suspension or Reduction of Safe Harbor Nonelective Contributions.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622–3869, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Suspension or Reduction of Safe Harbor Nonelective Contributions.

OMB Number: 1545–2191.

Form Number: REG–115699–09.

Abstract: These regulations allow a 401(k) plan using the safe harbor provisions of section 401(k)(12) to suspend or reduce nonelective safeharbor contributions due to a business hardship. They must give employees notice of this reduction.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 20, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07520 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3PR, and W–3SS; Form 1120, U. S. Corp. Income Tax Return and its affiliated schedules; Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes; Form 1139, Corporation Application for Tentative Refund; and Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038–G, Information Return for Tax-Exempt Governmental Obligation, and Form 8038–GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

(1) *Title:* W–2 (Wage and Tax Statement), W–2c (Corrected Wage and Tax Statement). W–2AS (American Samoa Wage and Tax Statement), W–2GU (Guam Wage and Tax Statement), W–2VI (U.S. Virgin Islands Wage and Tax Statement), W–3 (Transmittal of Wage and Tax Statements), W–3c (Transmittal of Corrected Wage and Tax Statements), W–3PR (Informe de Comprobantes de Retencion), W–3cPR (Transmission de Comprobantes de Retencion Corregidos), and W–3SS (transmittal of Wage and Tax Statements). *OMB Number:* 1545–0008.

Form Number: Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3PR, and W–3SS.

Abstract: Employers report income and withholding information on Form W–2. Forms W–2AS, W–2GU and W–2VI are variations of Form W–2 for use in U.S. possessions. The Form W–3 series is used to transmit W–2 series forms to the Social Security Administration. Forms W–2c, W–3c and W–3cPR are used to correct previously filed Forms W–2, W–3, and W–3PR. Individuals use Form W–2 to prepare their income tax returns.

Current Actions: There are no changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals, or households, not-for-profit institutions, farms, and Federal, state local or tribal governments.

Estimated Number of Respondents: 253,007,121.

Estimated Time per Respondent: varies.

Estimated Total Annual Burden Hours: 1.

(2) *Title:* Form 1120–U. S. Corp. Income Tax Return, Schedule B-Additional Information for Schedule M–3 Filers, Schedule D-Capital Gains and Losses, Schedule G-Information of Certain Persons Owning the Corporation's Voting Stock, Schedule H-Section 280H Limitations for a Personal Service Corporation (PSC), Schedule M–3-Net Income (Loss) Reconciliation for Corporations with Total Assets of $10 Million or More, Schedule N-Foreign Operations of U.S. Corporations, Schedule O-Consent Plan and Apportionment Schedule for a Controlled Group, and Schedule PH–U.S. Personal Holding.

OMB Number: 1545–0123.

Form Number: 1120, Schedule B, Schedule D, Schedule G, Schedule H, Schedule M–3, Schedule N, Schedule O, and Schedule PH.

Abstract: Form 1120 is used by corporations to compute their taxable income and tax liability. Schedule D (Form 1120) is used by corporations to report gains and losses from the sale of capital assets. Schedule H (Form 1120) is used by personal service corporations to determine if they have met the minimum distribution requirements of section 280H. Schedule N (1120) is used by corporations that have assets in or business operations in a foreign country or a U.S. possession. Schedule O (Form 1120) will be used by corporations that are members of a controlled group to show the adoption, amendment, or termination of an apportionment plan. It will also be used to show the apportionment of taxable income, income tax, and other tax benefits for members of the controlled group. Schedule PH (Form 1120) is used by personal holding companies to figure the personal holding company tax under section 541. The IRS uses these forms to determine whether corporations have correctly computed their tax liability.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 5,775,633.

Estimated Time per Respondent: 89 hrs, 18 min.

Estimated Total Annual Reporting Burden hours: 354,465,880.

(3) *Title:* Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

OMB Number: 1545–0181.

Form Number: 4768.

Abstract: Form 4768 is used to request an extension of time to file an estate (and generation-skipping) tax return

and/or to pay the estate (and generation-skipping) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 18,500.

Estimated Time per Respondent: 1 hour 52 minutes.

Estimated Total Annual Burden Hours: 34,410.

(4) *Title:* Corporation Application for Tentative Refund.

OMB Number: 1545–0582.

Form Number: 1139.

Abstract: Form 1139 is filed by corporations that expect to have a net operating loss, net capital loss, or unused general business credits, carried back to a prior tax year. IRS uses Form 1139 to determine if the amount of the loss or unused credits is proper.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,750.

Estimated Time per Respondent: 44 hrs., 25 min.

Estimated Total Annual Burden Hours: 165,938.

(5) *Title:* Information Return for Tax-Exempt Private Activity Bond Issues (Form 8038), Information Return for Tax-Exempt Governmental Obligation (Form 8038–G), and Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales (Form 8038–GC).

OMB Number: 1545–0720.

Form Number: 8038, 8038–G, and 8038–GC.

Abstract: Issuers of state or local bonds must comply with certain information reporting requirements contained in Internal Revenue Code section 149 to qualify for tax exemption. The information must be reported by the issuers about bonds issued by them during each preceding calendar quarter. Forms 8038, 8038 G, and 8038 GC are used to provide the IRS with the information required by Code section 149 and to monitor the requirements of Code sections 141 through 150.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local or Tribal Governments and not-for-profit institutions.

Estimated Number of Respondents: 39,491.

Estimated Time per Respondent: 21 hours 4 minutes.

Estimated Total Annual Burden Hours: 831,714.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–07561 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–20

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–20, Voluntary Compliance on Alien Withholding Program (''VCAP'').

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Compliance on Alien Withholding Program (''VCAP'').

OMB Number: 1545–1735.

Revenue Procedure Number: Revenue Procedure 2001–20.

Abstract: The revenue procedure will improve voluntary compliance of colleges and universities in connection with their obligations to report, withhold and pay taxes due on compensation paid to foreign students and scholars (nonresident aliens). The revenue procedure provides an optional opportunity for colleges and universities which have not fully complied with their tax obligations concerning nonresident aliens to self-audit and come into compliance with applicable reporting and payment requirements.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 495.

Estimated Time per Respondent: 700 hours.

Estimated Total Annual Burden Hours: 346,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–07529 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Information Reporting Program Advisory Committee (IRPAC); Nominations

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Request for Nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals for selection to the Information Reporting Program Advisory Committee (IRPAC). Nominations should describe and document the proposed member's qualifications for IRPAC membership, including the applicant's past or current affiliations and dealings with the particular tax segment or segments of the community that he or she wishes to represent on the committee. In addition to individual nominations, the IRS is soliciting nominations from professional and public interest groups that wish to have representatives on the IRPAC. IRPAC will be comprised of 21 members. There are eight positions open for calendar year 2014. It is important that IRPAC continue to represent a diverse taxpayer and stakeholder base. Accordingly, to maintain membership diversity, selection is based on the applicant's qualifications as well as the taxpayer or stakeholder base he/she represents.

The IRPAC advises the IRS on information reporting issues of mutual concern to the private sector and the federal government. The committee works with the Commissioner of Internal Revenue and other IRS leadership to provide recommendations on a wide range of information reporting administration issues.

Membership is balanced to include representation from the tax professional community, small and large businesses, banks, insurance companies, colleges and universities, and industries such as securities, payroll, finance and software.

DATES: Written nominations must be received on or before May 31, 2013.

ADDRESSES: Nominations should be sent to: Ms. Caryl Grant, National Public Liaison, CL:NPL:SRM, Room 7559 IR, 1111 Constitution Avenue NW., Washington, DC 20224, Attn: IRPAC Nominations. Applications may be submitted via fax to 202–622–8345. Application packages are available on the IRS Web site at *http://www.irs.gov/Tax-Professionals.* Application packages may also be requested by telephone from National Public Liaison, 202–622–6440 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: MS. Caryl Grant at 202–622–6440 (not a toll-free number) or *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989, the IRPAC works closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. Conveying the public's perception of IRS activities to the Commissioner, the IRPAC is comprised of individuals who bring substantial, disparate experience and diverse backgrounds to the Committee's activities.

Each IRPAC member is nominated by the Commissioner with the concurrence of the Secretary of Treasury to serve a three-year term. Working groups address policies and administration issues specific to information reporting. Members are not paid for their services. However, travel expenses for working sessions, public meetings and orientation sessions, such as airfare, per diem, and transportation are reimbursed within prescribed federal travel limitations.

Receipt of applications will be acknowledged, and all individuals will be notified when selections have been made. In accordance with Department of Treasury Directive 21–03, a clearance process including fingerprints, annual tax checks, a Federal Bureau of Investigation criminal check and a practitioner check with the Office of Professional Responsibility will be conducted. Federally registered lobbyists cannot be members of the IRPAC.

Equal opportunity practices will be followed for all appointments to the IRPAC in accordance with the Department of Treasury and IRS policies. The IRS has special interest in assuring that women and men, members of all races and national origins, and individuals with disabilities are welcomed for service on advisory committees: and therefore, extends particular encouragement to nominations from such appropriately qualified candidates.

Dated: March 22, 2013.

John Lipold,

Designated Federal Official, National Public Liaison.

[FR Doc. 2013–07556 Filed 3–29–13; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—April 4, 2013, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: William A. Reinsch, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing

in Washington, DC on April 4, 2013, ''China's Maritime Disputes in the East and South China Seas.''

Background: This is the third public hearing the Commission will hold during its 2013 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The hearing will explore the security, political, and economic drivers of China's maritime disputes in the East and South China Seas. In addition, this hearing will examine the implications of these disputes for the United States as well as prospects for resolution.

The hearing will be co-chaired by Commissioners Peter Brookes and Katherine C. Tobin. Any interested party may file a written statement by April 4, 2013, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date and Time: Room G–50 Dirksen Senate Office Building. Thursday, April 4, 2013, 9:00 a.m.–3:00 p.m. Eastern Time. A detailed agenda for the hearing is posted to the Commission's Web site at *www.uscc.gov*. Also, please check our Web site for possible changes to the hearing schedule. *Reservations are not required to attend the hearing.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov*. *Reservations are not required to attend the hearing*.

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: March 26, 2013.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2013–07416 Filed 3–29–13; 8:45 am]

BILLING CODE 1137–00–P

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Federal Register

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CFR PARTS AFFECTED DURING APRIL

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 933/P.L. 113–6
Consolidated and Further Continuing Appropriations Act, 2013 (Mar. 26, 2013; 127 Stat. 198)

Last List March 15, 2013

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
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April 18	May 3	May 9	May 20	May 23	Jun 3	Jun 17	Jul 17
April 19	May 6	May 10	May 20	May 24	Jun 3	Jun 18	Jul 18
April 22	May 7	May 13	May 22	May 28	Jun 6	Jun 21	Jul 22
April 23	May 8	May 14	May 23	May 28	Jun 7	Jun 24	Jul 22
April 24	May 9	May 15	May 24	May 29	Jun 10	Jun 24	Jul 23
April 25	May 10	May 16	May 28	May 30	Jun 10	Jun 24	Jul 24
April 26	May 13	May 17	May 28	May 31	Jun 10	Jun 25	Jul 25
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